



EBA/CP/2016/05

25 April 2016

Consultation Paper

Draft Regulatory Technical Standards

on disclosure of encumbered and unencumbered assets under
Article 443 of the CRR

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1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by **25.07.2016**. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

Article 443 of Regulation (EU) 575/2013 (the Capital Requirements Regulation – CRR) mandates the EBA to develop draft regulatory technical standards (RTS) on unencumbered assets taking into account the European Systemic Risk Board (ESRB) Recommendation ESRB/2012/2 of 20 December 2012¹ on the funding of credit institutions. Consequently, the EBA has drawn up these RTS which, in addition to fulfilling the requirement of the CRR, will fulfil Recommendation D on market transparency on asset encumbrance in the ESRB Recommendations.

As recommended by the ESRB the EBA has developed this set of draft RTS, building on the gradual approach, according to which disclosures are to be enhanced after the first year following adoption of the EBA Guidelines.

The mandate in Article 443 of the CRR refers to unencumbered assets, whereas the ESRB Recommendation also refers to encumbered assets. The EBA has therefore drawn up these RTS and the accompanying templates to cover both encumbered and unencumbered assets in line with the ESRB Recommendation and Article 16 of Regulation (EU) No 1093/2010 (the EBA Regulation).

The EBA defines asset encumbrance as pledging an asset or entering into any form of transaction to secure, collateralise or credit enhance any transaction from which it cannot be freely withdrawn.

The EBA has drawn up these RTS to provide transparent and harmonised information on asset encumbrance across Member States based on a harmonised definition of encumbrance, and to enable market participants to compare the institutions in a clear and consistent manner. These RTS provide three disclosure templates and a box for narrative information to be filled in by the institutions about the importance of encumbrance in their funding model. The following information will be required:

- the encumbered and unencumbered assets in carrying and fair value amounts by broad categories of asset type, with the carrying amount of unencumbered assets broken down by asset quality (Template A);
- collateral received by an institution, by broad categories of product type (Template B);
- carrying amount of encumbered assets/collateral received and associated liabilities (Template C);
- narrative information on the importance of asset encumbrance for an institution (Template D).

¹ OJ C 119, 25.4.2013, p. 1.

The templates included in these RTS are designed to show the amounts of encumbered and unencumbered assets of an institution. In doing so they differentiate assets that are used to support existing funding or collateral needs from those assets that are available for potential funding needs. Templates are supplemented with narrative information on the importance of encumbrance in the funding model of the institution.

Within the previous year the EBA has gained experience on the collection of asset encumbrance data, through the requirements of Article 100 of the CRR instituting a dedicated supervisory reporting on repurchased agreements, securities lending and all other forms of encumbrance of assets. As for institutions, they have been disclosing data on asset encumbrance since June 2014 and the issuance of the EBA Guidelines on disclosure of encumbered and unencumbered assets.

The EBA believes that disclosure by institutions about encumbrance is vitally important as it allows market participants to better understand and analyse the liquidity and solvency profiles of institutions. These RTS take into account the recommendation by the ESRB that disclosures should ensure that the level and evolution of assets encumbered to central banks and the amount of liquidity assistance given by central banks cannot be detected, as recommended by the ESRB.

Next steps

These RTS will be consulted upon for a period of three months. Following the end of this period, these draft RTS will be finalised and submitted to the European Commission for it to decide whether to endorse EBA's draft technical standards.

3. Background and rationale

On 20 December 2012 the ESRB published a Recommendation on the funding of credit institutions (ESRB/2012/2)². It recommends that the EBA and national supervisory authorities monitor the level, evolution and types of asset encumbrance, and that the EBA issue guidelines on harmonised templates and definitions and also on transparency requirements for credit institutions on asset encumbrance (Recommendation D within ESRB Recommendation 2012/2).

This Recommendation is linked to Article 443 of Regulation (EU) 575/2013 (hereinafter 'the CRR') that requires institutions to disclose information on unencumbered assets and mandates the EBA to develop guidelines to specify the disclosure of unencumbered assets, taking into account the very ESRB Recommendation. The Guidelines were issued in June 2014 and have been complied with by institutions ever since³.

The ESRB Recommendation puts forward a gradual approach according to which the disclosure requirements shall be enhanced as the EBA gains experience with asset encumbrance, including the data collected via the supervisory reporting framework specified in Article 100 CRR and Commission Implementing Regulation (EU) 2015/79⁴ of 18 December 2014. In particular, the guidelines should be amended to require information to be provided on a semi-annual basis and supplemented by a requirement to disclose a breakdown by asset quality, provided that the EBA deems that such additional disclosure offers reliable and meaningful information.

This gradual approach has been inserted into Article 443 CRR via the mandate for the EBA to develop draft regulatory technical standards including the information requirements in the Guidelines as well as specifying the disclosure of the balance sheet value per exposure class broken down by asset quality and the total amount of the balance sheet value that is unencumbered if such an additional disclosure is deemed offering reliable and meaningful information.

Within the previous year the EBA has gained experience on the collection of asset encumbrance data, through the requirements of Article 100 of the CRR instituting a dedicated supervisory reporting on repurchased agreements, securities lending and all other forms of encumbrance of assets. The EBA published aggregated data on asset encumbrance based on the monitoring allowed

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https://www.esrb.europa.eu/pub/pdf/recommendations/2012/ESRB_2012_2.en.pdf?bbfeebcf4c3d5de6bd18a8b2f6148adc

3 <http://www.eba.europa.eu/regulation-and-policy/transparency-and-pillar-3/guidelines-on-disclosure-of-encumbered-and-unencumbered-assets>

4 Commission Implementing Regulation (EU) 2015/79 of 18 December 2014 amending Implementing Regulation (EU) No 680/2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards asset encumbrance, single data point model and validation rules (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1422441915378&uri=CELEX:32015R0079>)

by the supervisory reporting, both in regular updates on risks in the banking systems⁵ and in its September 2015 report on asset encumbrance⁶. As for institutions, they have been disclosing data on asset encumbrance since June 2014 and the issuance of the EBA Guidelines on disclosure of encumbered and unencumbered assets⁷.

Considering this experience gained in the collection and disclosure of data and in accordance with the gradual approach described above, the EBA developed these RTS to enhance the disclosure requirements on asset encumbrance, taking into account the additional data reporting requirements to be provided after the first year following adoption of the guidelines, as recommended by the ESRB.

These RTS will provide information on assets and collateral that has been received, and as well as on liabilities associated with encumbered assets. In addition to these templates, institutions should also disclose narrative information on the importance of asset encumbrance in their business model. These templates enable the disclosure of information on encumbered and unencumbered assets by asset type, in line with the breakdown suggested by the ESRB and to comply with disclosure requirements laid down in Article 443 of the CRR.

The EBA has drawn up its RTS by considering:

- the existing disclosure requirements in Part Eight of the CRR;
- the existing disclosure requirements in IFRS 7 and IFRS 12 as well as in Council Directive 86/635;
- supervisory reporting requirements on asset encumbrance as specified in Commission Implementing Regulation (EU) 2015/79 of 18 December 2014;
- the work of the Enhanced Disclosure Task Force (EDTF) sponsored by the Financial Stability Board;
- existing room for improvement in disclosures that institutions have so far provided on asset encumbrance.

None of the existing disclosure requirements in the accounting and regulatory framework allows for the provision of a comprehensive picture of encumbered and unencumbered assets as defined in these RTS, as the existing disclosure requirements do not rely on the concept of encumbrance as defined by the EBA. The EBA defines asset encumbrance as pledging an asset or entering into any form of transaction to secure, collateralise or credit enhance any transaction from which it cannot be freely withdrawn.

Setting specific disclosure requirements is, therefore, necessary to achieve comprehensive and harmonised disclosure of asset encumbrance across the EU. In addition to offering a comprehensive scope of disclosure for asset encumbrance, these RTS would also achieve a higher degree of standardisation in the scope of application and presentation of information compared to existing

⁵ See the June 2015 Risk Assessment Report (<http://www.eba.europa.eu/documents/10180/1132391/Risk+Assessment+Report+-+June+2015.pdf/b6bc998c-d63c-47b9-9450-7da5788b63cf>)

⁶ EBA Report on asset encumbrance, September 2015 (<http://www.eba.europa.eu/documents/10180/974844/EBA+Report+on+Asset+Encumbrance+-+September+2015.pdf>)

⁷ <http://www.eba.europa.eu/documents/10180/741903/EBA-GL-2014-03+Guidelines+on+the+disclosure+of+asset+encumbrance.pdf/c65a7f66-9fa5-435b-b843-3476a8b58d66>

disclosure requirements, as they would apply a specific disclosure format to all EU institutions, whereas other requirements, for instance those in IFRS 7 or IFRS 12 generally do not specify format of disclosure or do not apply mandatorily to each institution.

This will create a level playing field and avoid collective action problems, while concerns about proportionality will be dealt with by the application of the principle of materiality common to all the disclosure requirements in Part Eight of the CRR specified by the EBA guidelines on materiality, proprietary and confidentiality and on disclosure frequency under 432 (1), 432(2) and 433 of the CRR (EBA/GL/2014/14). While institutions will retain the ability to supplement the requirements in these RTS by additional disclosures with an ad hoc format, the standardisation of a minimum amount of information, which can always be accompanied by additional explanations, is beneficial for the comparability of information between institutions and for the analysis performed by investors.

3.1 Current disclosure requirements and identified shortfalls

These RTS allow bridging the same disclosure gaps described below in the accounting and regulatory frameworks as the current Guidelines on disclosure of encumbered and unencumbered assets. Nevertheless, the additional features of the RTS compared to the Guidelines should enhance their relevancy for users in terms of information available on asset encumbrance.

As regards regulatory disclosure requirements, Part Eight of the CRR only covers disclosure on liquidity in a general way – under the requirement in Article 435 to provide disclosure on the risk management for each type of risks including those in the CRR – and does not explicitly mention funding as a risk to provide disclosures on (although some institutions voluntarily include some disclosure on this topic as part of their Pillar 3 report). Before the release of the Guidelines specifying the requirements in Article 443, the only disclosure requirements that covered a situation of encumbrance were to be found in Article 439 and related to the policies for securing collateral and to the impact of a credit downgrade on the level of collateral to be posted by the institution.

Article 443 has resulted in guidelines being developed by the EBA, specifying the disclosure of encumbered and unencumbered assets. In accordance with Article 443 as specified in the Guidelines, institutions should disclose the carrying amount and fair value of their encumbered and unencumbered on-balance sheet assets, the fair value of their encumbered and unencumbered collateral received and own debt securities issued, and the total amount of encumbered assets and off-balance sheet items with their associated liabilities. While these Guidelines resulted in an enhancement of regulatory information available on asset encumbrance following a common definition and a common format, supervisors keep the ability to explain their situation in case of non-compliance or partial compliance⁸.

As regards accounting disclosure requirements, IFRS 7, as adopted in the European Union in accordance with Regulation (EC) No 1606/2002 (IFRS), requires institutions to disclose the carrying

⁸ In practice, all EU National Competent Authorities have declared their intent to fully comply with the Guidelines, with two NCAs intending to comply partially (see the Compliance table on <http://www.eba.europa.eu/documents/10180/741903/EBA+GL+2014+03-Compliance+Table-Guidelines+on+Disclosure+of+Encumbered+%26+Unencumbered+Assets.pdf/cbf6397-9e76-4c49-bda2-0fb49902d027>). The compliance of institutions with the Guidelines is discussed in the next section

amount of the financial assets that they have pledged as collateral for their liabilities or contingent liabilities (IFRS 7.14), and the carrying amount or, depending on the transaction considered, the fair value of transferred assets that have not been derecognised. Transferred but not derecognised assets cover, for example, assets that have been posted as collateral or are otherwise involved in reverse repos, securitisation or the issuance of covered bonds operations (IFRS 7.42A–42H). IFRS 7 also requires the disclosure of the fair value of collateral held that the institution is permitted to sell or re-pledge in the absence of default by the borrower, and the amount that has been sold or re-pledged, as well as of qualitative information about the terms and conditions of collateral uses and pledges (IFRS 7.15). Lastly, IFRS requires the disclosure of the carrying amount of subsidiaries' assets, the use of which is restricted for settlement of the group's liabilities (for instance, cash that is not transferable between subsidiaries and parents), and the liabilities to which those restrictions apply (IFRS 12.13).

For banks that are not subject to or do not choose to apply IFRS in their financial statements⁹, Council Directive 86/635 also requires the disclosure of the total assets pledged as security for each liabilities item and for each off-balance-sheet item (Article 40). It also requires the amounts of assets that are eligible for refinancing with the central bank(s) of the country or countries in which reporting institutions are based, and a breakdown of other transferable securities into asset classes (Article 4 and Articles 13 to 19).

Disclosure requirements under IFRS 7, IFRS 12 and Council Directive 86/635 appear as more comprehensive than those from the EBA guidelines. Nevertheless, IFRS 7 refers to the notion of transferred assets, IFRS 12 to restricted use assets, and the Council Directive 86/635 to assets pledged and available to be pledged. None of the accounting standards refers especially to encumbered assets. Accordingly, the definition of transferred assets¹⁰ allows those disclosures, coupled with those on pledged collateral or assets of restricted use, only cover some situations of asset encumbrance¹¹ and do not provide a comprehensive view on the phenomenon of encumbrance as defined by the EBA. More importantly, IFRS and Council Directive disclosure requirements do not prescribe disclosure format; this has resulted in different practices among institutions.

In addition to accounting and regulatory disclosure requirements, the Enhanced Disclosures Task Force (EDTF), a private sector body under the aegis of the Financial Stability Board (FSB), recommended in a report fully endorsed by the FSB an enhancement of disclosures on encumbered assets. Specifically, the EDTF recommends summarising encumbered assets¹² and unencumbered

⁹ Regulation (EC) No 1606/2002 requires IFRS standards to be used for the preparation of the consolidated financial statements of listed entities only. Other entities can choose or be permitted to use IFRS for their solo or consolidated financial statements.

¹⁰ Transferred assets, whether or not the transfer has resulted in their de-recognition from the balance-sheet of the transferor, are assets for which the contractual rights to receive cash-flows have been transferred, even if the assets have not been derecognised, or assets the holder of which retains the contractual rights to the cash flows but has the contractual obligation to pay them to one or more recipients (IFRS 7.42A).

¹¹ reverse repos, securities lending, securitisation transactions, covered bonds, limited availability of assets yet on the consolidated balance sheet to cover funding needs of the group due to restrictions

¹² These are defined as assets pledged as collateral or that are restricted to be used for securing funding, for example, mortgage loans pledged in favour of covered bond holders, securitised assets and collateral for repos and securities financing transactions.

assets in a tabular format by balance-sheet category. This summary should include collateral that can be re-hypothecated or otherwise redeployed. The EDTF also provides an example of tabular disclosures and recommends accompanying the quantitative disclosures with qualitative disclosures on the nature and characteristics of encumbered and unencumbered assets.¹³

The EDTF released in 2014 proposals to update its recommendation regarding disclosures on asset encumbrance, which would expand on the 2012 recommendation to include tabular quantitative disclosures on the amount of non-cash collateral received available to support funding and collateral needs by types of operation, as and sources of encumbrance for on-balance sheet assets and collateral received that is re-hypothecated by types of operations¹⁴.

The EDTF recommendations are not of mandatory use by banks, although some national competent authorities have encouraged banks to implement them. In fact, the EDTF found out in 2014 that its recommendation on asset encumbrance was one of the least implemented by banks, with only 49% of banks having implemented it in full and 15% partially. One of the reasons for this low implementation was that institutions waited for the finalisation of the EBA Guidelines¹⁵.

The EBA Guidelines were therefore useful in increasing transparency and consistent disclosures on asset encumbrance in Pillar 3 reports in a context where disclosures provided in the financial statements suffered from shortcomings regarding their scope and their implementation. As an example, disclosure analyses, including those by the European Securities and Markets Authority (ESMA)¹⁶, have shown the continuing need for improvement of disclosures regarding asset encumbrance, as regards the provision of comprehensive quantitative information related to encumbered or unencumbered assets, or the level of detail and granularity on assets pledged as collateral or transferred, which varied depending on institutions. In addition, the provision of information in multiple places throughout the financial statements or the risk management report often prevents investors from accessing a comprehensive view of the assets that could be freely used to meet future liquidity needs of the financial institutions. Nevertheless, the implementation of the EBA guidelines themselves has led to the identification of room for further improvement.

3.2 Recent regulatory work on asset encumbrance

In September 2015 the EBA published its report on asset encumbrance, based on data submitted via asset encumbrance reporting under Article 100 CRR and Commission Implementing Regulation (EU) 2015/79 Article 100 of the CRR requires the institutions to report to the competent authorities the level of their repurchase agreements, securities lending and all forms of asset encumbrance.

The report is intended to be the first of an annual report on a regular monitoring of the extent of and the changes in the levels of asset encumbrance on EU-level as well as the sources for asset encumbrance in a way which helps supervisors and policy makers make decisions about their

¹³ See Figure 5 in https://www.financialstabilityboard.org/publications/r_121029.pdf.

¹⁴ EDTF 2014 Progress Report (http://www.financialstabilityboard.org/wp-content/uploads/r_140930a.pdf)

¹⁵ EDTF 2014 Progress Report (http://www.financialstabilityboard.org/wp-content/uploads/r_140930a.pdf)

¹⁶ ESMA Comparability of IFRS Financial Statements of Financial Institutions in Europe, November 2013 http://www.esma.europa.eu/system/files/2013-1664_report_on_comparability_of_ifrs_financial_statements_of_financial_institutions_in_europe.pdf.

institutions and the sector, and to create transparency on aggregate core asset encumbrance metrics for market participants. Next releases of the reports are expected to provide increasingly relevant information as possible data quality issues are resolved once the reporting of asset encumbrance data is fully established and institutions' familiarity of reporting asset encumbrance data increases.

2014 was the first year of implementation of the EBA guidelines on disclosures of encumbered and unencumbered assets. The EBA has found that overall the degree of compliance of the banks assessed with the Guidelines was quite high. However, while all the banks provided the required quantitative templates, sometimes with some specificities, the level of qualitative information disclosed was less satisfactory, despite some best practices noted such as the disclosure of the evolution of encumbrance over time.

When the assessment of banks' disclosures goes beyond the assessment of the compliance of their disclosures with the specifications in the guidelines and is focused on how these different provisions have been implemented when banks applied the Guidelines, different practices by banks become obvious.

When disclosing information on encumbered and unencumbered on-balance sheet assets, some institutions supplemented the breakdown provided for in the guidelines to include additional exposure classes, such as loans and advances, or to further break the exposure classes in the template down, for instance for the Other assets category. When the breakdown does not take the form of additional exposure classes, it can be done in an accompanying narrative. In addition, some institutions distinguish between unencumbered assets available and non-available for encumbrance, in practice merging the EBA Guidelines with the EDTF recommendation. The same varying practices can be observed for the disclosure template on collateral received. Similarly, additional breakdowns can be introduced in the disclosures on encumbered assets and off-balance sheet items and their associated liabilities, with a separation of the amounts by types of transactions giving rise to encumbrance. As for qualitative disclosures, the provisions in the guidelines have been rarely totally implemented but were sometimes supplemented by additional information not listed in the guidelines, such as an encumbrance ratio, which happened to be calculated differently depending on the institutions.

3.3 The EBA's proposed RTS for disclosures on asset encumbrance

3.3.1 Overview

Considering the background provided above and taking into account the importance of the provision of information surrounding asset encumbrance, the EBA has drawn up these RTS to provide a comprehensive view on asset encumbrance and to harmonise the presentation of relevant disclosures by building on, and completing, the relevant IFRS existing requirements, as well as the EBA Guidelines on disclosure of encumbered and unencumbered assets.

Therefore, it was decided that an identical scope should be adopted in terms of transactions covered: to the extent that they meet the definitions in these RTS, all transactions involving encumbrance of assets that have to be disclosed in accordance with IFRS 7 requirements on pledged and transferred assets, irrespective of the counterparty to which the assets are pledged or transferred should also

lead to disclosure in accordance with these RTS, as long as they involve a party included within the regulatory scope of consolidation applicable for disclosures in Part Eight CRR. However, additional transactions to those for which information should be disclosed in IFRS may be covered by these guidelines if they meet the definition of encumbrance for which they provide.

In addition, the supervisory reporting requirements set out under Article 100 CRR and Commission Implementing Regulation (EU) 2015/79 already allow supervisory authorities to engage in monitoring of encumbrance levels and for instance to compare the reliance on secured funding and assess the ability of institutions to handle funding stress, and of the ability of switching to secured funding;. These elements are also of interest for users of disclosures, and therefore to the extent possible, these RTS endeavour to provide market participants with the appropriate degree of information to allow them to engage in similar monitoring activities and have a broad assessment of the amounts of assets available in a resolution situation. These RTS will therefore empower market participants to make informed decisions on their business activities.

In addition, institutions being already required to report to their supervisors the information required by Article 100 CRR and Commission Implementing Regulation (EU) 2015/79, the EBA chose to base these RTS to the extent possible on the supervisory reporting on asset encumbrance. This will allow these RTS to provide consistency in both the content and the presentation of disclosures, thanks to common definitions and formats, in a way that minimises the implementation costs for institutions as these common definitions and formats are already implemented for the supervisory reporting. The same approach was previously adopted for the EBA Guidelines.

The EBA has also looked at the EDTF proposal with great interest and in detail. It is an initiative stemming from the private sector with the objective of minimising the additional costs of implementation for institutions, as some of them have already moved towards implementing the EDTF recommendation, while providing information which is meaningful for the general public. Although they present a lower level of granularity than the EDTF recommendation, due to the need to avoid inadvertent disclosure of use of emergency lending outside the framework that may be provided for by central banks, these RTS nevertheless provide for a single framework consistent with the EDTF recommendation.

These RTS build on the guidelines for disclosure on encumbered and unencumbered assets that were published in June 2014. In particular, they adopt the same disclosure templates and instructions. Where appropriate, these instructions are clarified in order to address the inconsistencies in implementation that were noticed when reviewing institutions' disclosures.

However, the RTS also bring additional pieces of information, both for quantitative disclosures and qualitative disclosures. In particular, the RTS provides an enhanced granularity in the breakdown of encumbered and unencumbered assets and off-balance sheet items by asset classes. It also provides for a breakdown of encumbered and unencumbered assets by asset quality metrics, as this piece of information was assessed as useful by the EBA and for the fair value of encumbered and unencumbered assets. As for items available for encumbrance that are kept off-balance sheet, information has been added on own-issued but retained ABS and retained covered bonds.

Enhancements in disclosure requirements have also taken place as regards qualitative information. Enhancements in qualitative disclosures were thought to be necessary in order for users to be provided with the appropriate context of disclosures on asset encumbrance.

In particular, it is recognised that asset encumbrance levels very much depend on the business model of each bank, and to that extent institutions have to provide information on the impact of their business model on their levels of encumbrance. Within a given business model, the level of encumbrance can vary depending on the types and specificities of transactions carried out by institutions. This is why the requirements for informing on the evolution of encumbrance over the period and for the degree of overcollateralization and the structure of encumbrance within the group have been clarified. Institutions are now required to inform on the reasons behind the changes in their levels of encumbrance, on the extent of overcollateralization that is due to ABS and covered bonds and its impact on the level of encumbrance, as well as on which entities within a group the highest levels of encumbrance can be observed and whether there is significant intra-group encumbrance. Information on assets underlying retained ABS and retained covered bonds is also requested. In addition, institutions shall also inform about the differences in the concepts of pledged, transferred and encumbered, to enhance the understanding by users of these three concepts and how to inter-relate them to achieve an adequate picture of the use of assets by institutions to secure their transactions.

In order to accommodate the variety of business models, and to enable institutions to support their qualitative disclosures with appropriate quantitative information, some flexibility has been embedded in the templates. Indeed, when this is justified by their business model, institutions can provide further breakdown of some specific rows. For instance, an institution that engages in significant derivative and reverse repos activities and for this reason may find itself with a high amount of unencumbered assets unavailable for encumbrance. It may therefore choose to add some rows to the template on encumbrance of assets to inform about the amount of receivables stemming from derivatives and reverse repos activities, and in the template on sources of encumbrance to add information on encumbrance without associated liabilities. An institution may also decide to use the optional breakdown rows in case of significant covered bond or securitisation activities.

The EBA believes that these RTS will enable the market to obtain relevant and transparent information on encumbered and unencumbered assets that is clear and easy to compare, thereby enhancing the information available to investors. Nevertheless, given the sensitivity of this information and recognising the need for central banks to retain the ability to undertake covert liquidity support operations to ensure there is financial stability, they embed specific mechanisms to ensure that the level and evolution of assets encumbered to central banks and the amount of liquidity assistance given by central banks cannot be detected.

While the Guidelines fully relied on the instructions for supervisory reporting, the inclusion of these specific mechanisms has made necessary to depart from these instructions in some instances like the disclosure of specific types of operations. Cases of deviations from the instructions for supervisory reporting are specifically identified in the appendix of the RTS. Despite the shared features of these RTS and the current IFRS disclosure requirements, especially in terms of transactions in scope, these RTS are intended only for the purposes of the disclosure requirements in Part Eight of the CRR and

their provisions should not be used as the basis for compliance with IFRS disclosure requirements, which have different purposes.

For example, the focus of these RTS is on gauging the resilience of banking activity in Europe within consolidated banking groups according to the regulatory scope as defined in the CRR, so these RTS do not require disclosure of encumbrance arising from activities within insurance entities. Nonetheless, where insurance activities result in the encumbrance of assets held by an institution, all of these encumbering activities are required to be disclosed in the financial statements. Compliance with these RTS does not waive the requirement to comply with IFRS disclosure requirements (i.e. disclosures under Article 443 CRR as specified in these RTS are in addition and not in substitution to disclosures required by IFRS 7).

3.3.2 Issues for consultation

The benefits of transparency for users of financial and regulatory information need to be balanced against the possible unwanted consequences of disclosure on financial stability.

Transparency can generally be considered as a tool to address the loss of confidence between parties that results from a financial shock. By making information about the risks and concentrations of exposures to risks available to all parties in the markets, transparency contributes to recreate the conditions for an orderly functioning of the financial markets, among which is access to information in order for economic agents to make decisions on an informed basis. By making risks known, transparency also contributes to the mechanism of market discipline that is enabling investors to identify risks and behave in a way that either signals those risks to other market participants or compels institutions to adopt sound risk management policies in the best interests of investors.

Regarding asset encumbrance, it means especially that by revealing the level of asset encumbrance disclosures allows investors to identify how much of their assets institutions use to secure funding and how much assets remain available to future secure funding. By doing so, it contributes to market discipline as investors are reassured regarding the true level of secured funding in institutions in case this has become an area of concerns for markets, and institutions are incentivised to adopt policies that will enable them to maintain sufficient buffers of assets available to secure funding. However concerns have been expressed that while reassured regarding some institutions, investors could become worried about others, and that therefore disclosing information on asset encumbrance could lead to self-fulfilling prophecies the ability of institutions to continue as a going concern, potentially putting financial stability at risk.

a. Encumbrance due to operations with central banks

Concerns about the possible unwanted side-effects of transparency on the level of asset encumbrance especially pertain to central bank funding, and the negative impact, under the form of an institution-specific confidence shock that could have system-wide implications, which could be triggered by markets becoming aware that a specific institution is having access to central bank facilities. From this follows that the disclosure of information on central bank funding could, for some policy makers, hinder their ability to conduct liquidity assistance operations.

On the other hand, central bank funding should not necessarily be associated with emergency liquidity assistance and other covert intervention to ensure the going concern of an institution and the overall stability of the financial system. Central bank funding, and especially the regular weekly liquidity injections via regular standing monetary policy facilities as well as some special longer-term operations may also be part of the regular funding mix of institutions, which arbitrate for a given funding maturity and amount between the rate offered in the market and the rate available at central bank facilities. Ends of periods during which mandatory reserve requirements should be constituted can also be characterised by higher intakes in central bank funding. Therefore, the variation of institutions' reliance on central bank funding may not always indicate funding difficulties or the provision of central bank emergency liquidity assistance.

For these reasons, and also because other disclosure requirements in the financial statements (especially IFRS 7 and Directive 86/635) do not especially carve central bank funding out of their disclosure requirements, not to mention the freedom of disclosure that institutions themselves or central banks have as regards the provision of information on their funding in general and their operations¹⁷ and the recommendation from the ESRB to ensure consistency between the regulatory disclosures on asset encumbrance and the IFRS requirements, it was decided that the disclosure requirements shall cover all operations giving rise to encumbrance according to the EBA definition, including central bank funding. Doing otherwise and excluding central bank funding from the scope of disclosures would question the relevance and the sincerity of information disclosed, as it would only provide a partial view on asset encumbrance. The same approach was adopted in the 2014 guidelines.

As recommended in ESRB Recommendation 2012/2 however, and similarly to what has been done for the 2014 guidelines, the disclosure requirements have been designed to ensure that the level and evolution of assets encumbered to central banks, as well as the amount of liquidity assistance given by central banks, cannot be detected. This has in particular led to a lower granularity in the breakdown of asset classes for encumbered and unencumbered assets: loans are not especially identified because they are the types of assets that in some jurisdictions may particularly be used to secure central bank funding, either under regular standing monetary policy facilities or under ELA.

Q1. Given the balance between transparency and the need to avoid detection of central bank liquidity assistance, do you agree with the disclosure requirements proposed in this RTS? Do you agree with the fields in the Templates that are required to be disclosed? Please provide reasons for your answer.

b. The value used for disclosures

To address the concerns outlined above regarding the possible unwanted effects of transparency on asset encumbrance, and especially to allow central banks to keep on supporting institutions without this support being instantly noticed by markets, a possibility to provide investor with information on asset encumbrance could be to disclose information based on median values rather than a 'point in time' end of period value. This solution has already been implemented in the 2014 guidelines.

¹⁷ See for instance the recent clarification by the European Central Bank regarding the disclosure of information on Emergency Liquidity Assistance (<https://www.ecb.europa.eu/press/pr/date/2015/html/pr150916.en.html>)

Disclosures based on median values would prevent investors from accessing information on encumbered and unencumbered assets at a given reference date (the end of period date), and by this would depart from the approach used in other disclosures in Pillar 3 reports or the financial statements, including other disclosures in the financial statements that refer to transactions in the scope of the EBA definition of asset encumbrance (for instance disclosures on pledged assets and transferred assets in accordance with IFRS requirements or disclosures of encumbered assets in accordance with recommendations from the EDTF. By making the monitoring of the evolution of the level of encumbrance more difficult, as changes from a period to another will be less detectable and smoothed, median values may as a consequence lessen the relevancy of disclosures for investors compared to other disclosure sources, especially when concerns around funding arise.

However, median values would provide users with information on longer-term structural levels of encumbrance, disregarding short-term moves due to specific market conditions.

Average values have also been considered as a possible mitigant for the unwanted effect of disclosures using point in time value. Averages indeed allow to provide the amount of encumbrance over a period, and their use would be consistent with some of the disclosure requirements in the CRR (Article 442 (c) requires the disclosure of the exposure values by regulatory exposure classes at the end and over the period) and in IFRS (IFRS 7.35 requires the disclosure of further information that is representative in case quantitative data disclosed as at the end of the reporting period are unrepresentative of an entity's exposure to risk during the period). However, averages may be less stable than medians and, in case an institution is given liquidity assistance close to the end of the year, the change in the average encumbrance levels could signal the use of central bank facilities to markets.

Q2. Based on your experience with providing information according to the 2014 Guidelines or with using information disclosed as per these Guidelines, do you believe that the use of median values for disclosures offers sufficient relevant information while also addressing potential financial stability concerns or would you prefer disclosures using end of period values? Is there another appropriate value for disclosure? Please provide reasons for your answer.

c. The value to be disclosed in the “Total” and “Sub-total” rows

Quantitative disclosure templates are built on the supervisory reporting templates and consist in a series of rows, which include rows named “Assets of the reporting institution” (in Template A), “Collateral received by the reporting institution” and “Total assets, collateral received and own debt securities issued” (in Template B), and “Carrying amount of selected financial liabilities” (in Template C). In supervisory reporting, these rows are “Total” and “Sub-total” rows, intended to provide the sum of the values, expressed as end of period figures, in other rows.

Nevertheless, if values other than end of period values are used for disclosures, an issue arises about what to disclose in these rows. As the individual values disclosed do not represent the amounts of asset encumbered in a specific asset class at the end of the reporting period, the total amount of encumbered assets will also not be the total value of encumbered assets at the end of that period, raising the issue of finding the type of total that is the most relevant for investors' uses of disclosures.

Indeed, when median values are used, the amount disclosed in a “Total” or “Sub-total” row can have different interpretations. It could be either a sum of the medians disclosed in the other rows (“sum of the medians”) or the median of the “Total” amounts using end of period figures (“median of the sums”). These different possibilities are illustrated in the examples below.

The first calculation method (“sum of the medians”) would not provide any additional information for users, since it can already be deducted from the other disclosed rows of the template. The second calculation method (“median of the sums”), however, would provide additional information, since it can currently not be deducted from the other disclosed rows of the template

The two calculation methods can lead to the same “Total” result or to differing (higher or lower) results. The table below illustrates in a simplified way the difference in amounts to be reported in “Total” rows for encumbered assets according to both methods. In this example, the “sum of the medians” is greater than the “median of the sums”:

	Q1	Q2	Q3	Q4	Median values disclosed
Loans (end of period value)	100	50	25	<u>30</u>	<u>40</u>
Debt securities (end of period value)	0	100	200	400	150
Other assets (end of period value)	5	10	15	20	12.5
TOTAL sum of the medians					202.5
TOTAL median of the sums	105	160	240	450	200

However, it can also be vice versa, as the following example shows:

	Q1	Q2	Q3	Q4	Median values disclosed
Loans (end of period value)	<u>40</u>	50	25	<u>30</u>	<u>35</u>
Debt securities (end of period value)	0	100	200	400	150
Other assets (end of period value)	5	10	15	20	12.5
TOTAL sum of the medians					<u>197.5</u>
TOTAL median of the sums	105	160	240	450	200

The difference in value between a “sum of the medians” total and a “median of the sums” total is even greater in cases where the overall level of encumbrance is stable throughout the four quarters, but its distribution between the different asset classes changes markedly. In such a circumstance, the sum of the medians could be markedly smaller than the stable level of encumbrance throughout the four quarters :

	Q1	Q2	Q3	Q4	Median values disclosed
Loans (end of period value)	100	50	25	15	37.5

Debt securities (end of period value)	45	90	75	50	62.5
Other assets (end of period value)	5	10	50	85	30
TOTAL sum of medians					130
TOTAL median of the sums	150	150	150	150	150

Conversely, in such a circumstance, the sum of the medians could also be markedly greater than the stable level of encumbrance throughout the four quarters:

	Q1	Q2	Q3	Q4	Median values disclosed
Loans (end of period value)	0	80	70	50	60
Debt securities (end of period value)	70	0	80	50	60
Other assets (end of period value)	80	70	0	50	60
TOTAL sum of medians					180
TOTAL median of the sums	150	150	150	150	150

Since the amount of encumbered assets can vary markedly between the different asset classes over the course of the period used to compute the median values, the outcome of the two calculation methods can also vary markedly. Therefore, the “median of the sums” value should also be disclosed, in addition to the “sum of the medians” value which is implicit in the other rows which will be disclosed.

The EBA considers that the “median of the sums” is the most appropriate type to adopt for this RTS. Despite the potential lack of reconciliation in the data disclosed this method should be more representative and gives an extra piece of information to the “sum of the medians” which is already implicitly disclosed via the other rows.

Q3. Do you agree that the ‘median of the sums’ method is the most relevant to be used in calculating a “Total” or “Sub-total” row in the case median values are used for disclosure? Please provide reasons for your answer.

d. The indicator of asset quality to use

The EBA is mandated to include more information in disclosures about the balance sheet amounts per exposure classes broken down by asset quality. The EBA believes that information on asset quality can proceed from different sources, not just from the identification of specific categories for asset quality.

A first source of information on asset quality is the fair value of encumbered and unencumbered assets, as the accounting standards require the consideration of creditworthiness of a counterparty when fair-valuing an asset (IFRS 13.39, .41, .48, .56, .82, .B19-20, .B37 for IFRS and Directive 2013/34 Article 8(6) and (7) that respectively allow for the use of the same approach as under IFRS and define how fair value need to be determined under national GAAP) while measuring it at amortised cost does not require such consideration. Accordingly, the higher the negative difference between the fair value and the amortised cost, the lower the asset quality of an instrument may be. Of note, the

burden of having to fair value exposures normally measured at amortised cost is lessened by the reporting and disclosure requirements on the fair value of those assets (see Annex XVI of Regulation (EU) 680/2014, IFRS 7.25, Directive 2013/34 Article 17). This is why the technical standards have been enhanced compared to the Guidelines with the addition of specific columns on the fair value of encumbered and non-encumbered assets.

A second source of information on asset quality is the nature of assets, as some types of assets (such as government bonds or covered bonds) can be expected to have for most of the time and for most issuers an intrinsic asset quality higher than the asset quality of other exposures such as ABSs or instruments issued by non-financial corporations. Hence, the technical standards include additional rows on the types of debt instruments compared to the breakdown by types of exposures in the Guidelines, which leads to a significant enhancement in terms of the granularity of information disclosed.

However, credit quality is not the only driver of the change in fair value of a financial asset and not the only reason for the difference between the fair value and the amortised cost of that asset. Similarly, there are different degrees of credit quality within asset classes deemed of an intrinsic higher asset quality than other asset classes. For these reasons, a specific column for informing on asset quality of encumbered and unencumbered assets has been added.

Different concepts are available for use for this column, namely central bank eligibility, impaired, defaulted and non-performing exposures; risk-weights and risk-weight bands, internal ratings and asset quality bands, external ratings, assets of extremely and high quality credit and liquidity (EHQLA/HQLA) . The pros and cons of the different concepts are detailed below.

- **Central bank eligibility:** The easiest asset quality concept to use in terms of availability of data and easiness of computing median values could be eligibility to central bank's operations, as it is currently reported in the supervisory reporting (and to a lesser extent should already be available in some financial statements, at least under national GAAP, as Directive 86/635 Article 4 requires the separate presentation on the balance sheet of Treasury bills and other bills eligible for refinancing with central banks unless national law prescribes that eligible bills other than Treasury bills shall be shown under Loans and advances to credit institutions and Loans and advances to customers). The concept of central bank eligibility can also be applied to all types of exposures, regardless of whether it is located in the banking book or in the trading book of an institution (although encumbrance is expected to relate mostly to assets from the banking book, it can arise from activities located in the trading book such as derivatives)

Nevertheless, not all assets may be identified on the basis of their central bank eligibility (in supervisory reporting institutions that find it impossible to positively establish central bank eligibility for an item, for instance jurisdictions that operate without a clear definition of central bank repo eligible assets or do not have access to continuously functioning central bank repo market, shall leave the cells blank). In addition, the variety of eligibility frameworks between jurisdictions means that although disclosures in different banks will refer to the same asset quality indicator, they may suffer from comparability issues which may not be straightforward to users in absence of deep knowledge of the eligibility frameworks in each

of the jurisdictions in which credit institutions operate. Central bank eligibility may therefore be a relevant but sometimes partial indicator of asset quality, not to mention concerns that have been raised regarding the requirement to have such information disclosed due to its sensitivity.

- **Impaired, defaulted and non-performing exposures (traditional asset quality indicator):** The use of this traditional indicator of asset quality for each exposure class and separately for encumbered and unencumbered exposures would be consistent with the asset quality breakdown used otherwise, including in other disclosure requirements on securitisation in Pillar 3, and allows giving a broader view on asset quality than simply stating central bank eligibility. At a later point in time, the use of the impairment concepts in IFRS 9 and its classification of assets in different stages depending on their degree of credit risk could be contemplated, which would lead to a more granular breakdown of asset quality.

However, the main drawback of that traditional asset quality indicator is its operational complexity when applied to the disclosures on asset encumbrance information. Indeed, a breakdown of these traditional asset quality concepts between encumbered and unencumbered assets does not exist, and the complexity is increased if median values are used for disclosures, as institutions are not otherwise required to provide median values of their impaired, defaulted or non-performing exposures. As for information on asset quality based on IFRS 9, it would, in addition to the operational complexity to have it implemented for asset encumbrance purposes, only be applicable to IFRS institutions and hence not covering all institutions in the EU.

Lastly, the traditional asset quality indicator is only applicable to assets located in the banking book of an institution, therefore leaving aside all encumbered or unencumbered assets that would be located in the trading book of institutions.

- **Risk-weight average or bands:** For each exposure class, the disclosure templates would show the average applicable risk-weight, or a breakdown of assets by risk-weight bands. Information on risk-weight, either average or band, provided separately for encumbered and unencumbered assets would offer a broad vision of asset quality of all exposures, regardless of them meeting particular criteria for eligibility to certain source of funding. Considering the linkage between the risk-weight and the asset quality of the unweighted exposure, the average risk-weight or a breakdown of assets by risk-weight band would inform on the asset quality mix within each exposure class.

Nevertheless, information conveyed by risk-weights on asset quality may require a substantial level of granularity to be meaningful and allow users to draw the correct assumptions on the quality of assets. In particular, it is not certain that a common average risk-weight or common different risk-weight bands for both exposures under the Standardised and the IRB approach together will be informative enough for users, especially for non-securitisation positions. The risk-weights for defaulted credit exposures under the Standardised approach are higher than for non-defaulted exposures, but under the IRB framework this may not be true. This difference is less of a concern for securitization positions, where the risk-weight increases when the credit quality of an exposure under the

Standardised or the internal approaches deteriorates (and unrated exposures, deemed the riskiest, are associated with the highest risk-weights).

In addition, information on average risk-weight or risk-weight bands may be operationally complex to derive for institutions and difficult to understand for users. Indeed information on risk-weight of exposures or the allocation of exposures to risk-weight bands separately between encumbered and unencumbered assets is not already available to institutions. The complexity of deriving and difficulty of understanding this information increases for average risk-weights if median values are used for disclosure, as the risk-weights to be disclosed should then either be (i) the exposure-weighted average risk-weight derived using end of period values, (ii) the exposure-weighted average risk-weight derived using median values, or (iii) the exposure-weighted median risk-weight. Options (i) and (ii) appear the most operationally challenging as they are new calculation compared to what is currently required for disclosures of risk-weight information (especially in Article 452 CRR), while option (i) introduces a slight disconnection between the exposure value and the information on risk-weight.

A breakdown by risk-weight bands will suffer from the same complexities regarding the method to use to determine the lower and upper bounds of the bands. However, the main complexity for institutions is expected to be the need to derive the median value of all their exposures, separately for encumbered and unencumbered exposures, before assigning them to the different risk-weight bands.

Lastly, while most of encumbered assets may be expected to be located in the banking book, trading activity can also give rise to encumbrance, for instance collateral posted in derivative transactions, and there may be encumbered and unencumbered assets in the trading book. The use of risk-weights, either on average or risk-weight bands, may present limitations for credit institutions with large trading books and a sizeable portion of them for which internal models are used to derive capital requirements. Under internal models indeed, capital requirements proceed from the addition of several components such as VaR, stressed VaR and Incremental Risk Charge. Capital requirements can then be reverse-engineered to derive the risk-weighted assets. However, the allocation of trading book exposures by risk-weight bands does not appear practicable.

For users, information on risk-weights may be less intuitive than the other asset quality indicators to derive the quality of encumbered and unencumbered assets, and making assumptions may be more complicated without a deep knowledge of the risk-weighting requirements, in particular if a common average value is disclosed without distinction for positions from the banking and trading books (as information on risk-weights for the latter is not directly comparable to information on risk-weights for the former) or, within banking books, between credit exposures under the IRB and Standardised approaches.

- **Internal grades and credit quality steps:** For each exposure class, encumbered and unencumbered exposures would be broken down by IRB internal grades for exposures under the IRB approach and by credit quality steps for exposures under the Standardised approach. This would provide a very granular and broad breakdown of asset quality, encompassing all

types of exposures, including those that are not externally rated. It would also offer a vision of asset quality in line with the other regulatory disclosures on asset quality that are required in Pillar 3, where exposures under the Standardised and the IRB approaches are required to be broken down by credit quality steps and internal grades, respectively (see Article 444 and Article 452 CRR). Such granular disclosures could address some of the difficulties identified above regarding the meaningfulness of disclosing blended information on risk-weights under the Standardised and the IRB approaches.

The operational complexity of disclosures by internal grades and credit quality steps lies in the level of granularity that could be necessary, at a minimum with a breakdown between IRB and Standardised approaches, although suitable levels of aggregation could be specified in the RTS (for instance, institutions could be required to map their internal ratings and the standardized credit quality steps to pre-defined asset quality categories, or internal ratings could be required to be mapped to the credit quality steps under the Standardised approach). To ease the comparability of asset quality between institutions, a mapping between the internal ratings used and external ratings could be required (in addition to disclosures already required in Article 452 CRR) or a supervisory PD masterscale could have to be defined. In addition, specific guidance would have to be provided regarding the breakdown of securitization positions and assets that are not subject to internal ratings or credit quality steps in the CRR.

Moreover, other areas of complexity exist, such as the requirement to split exposures by internal grades and asset quality steps between encumbered and unencumbered exposures, which is currently not a requirement from Part Eight CRR or the reporting framework. The operational complexity increases when median values are used, as if information on exposures broken down by asset quality step or internal grade is already available in supervisory reporting or disclosures, this information does not exist for median values – therefore requiring institutions to compute the median value of all exposures before allocating them into internal ratings. In addition, should the disclosure be made using, like in Article 452 CRR, exposure average-weighted PD bands or average-weighted mid-PD in a band, the same difficulties as for disclosure by risk-weight band could arise to determine the lower and upper bands of each bracket or the mid-point of a bracket.

Lastly, internal ratings and credit quality steps are of limited relevance for exposures in the trading book that would find themselves encumbered, as capital requirements for those trading exposures are not strongly related to internal ratings or credit quality steps, in particular for trading book exposures under internal models.

Being developed by banks themselves, internal ratings may also raise issues of comparability, in the absence of supervisory masterscale framing the number of internal grades and their associated PD values. This drawback of the idiosyncrasy of internal ratings could however be mitigated by requiring a minimum level of granularity in disclosures, for instance a breakdown aligned on the minimum number of internal grades required in internal rating system (which Article 170 sets at 7 for non-defaulted obligors and 1 for defaulted obligors).

- **External ratings:** For each exposure class, the average external rating would be disclosed separately for encumbered and unencumbered assets, or unencumbered and encumbered assets would be broken down by external rating brackets. Using external rating is likely to overcome some of the difficulties with the use of risk-weights and internal rating or credit quality steps, as external ratings exist for both exposures under the Standardised and IRB approaches, and their lesser level of granularity may decrease the implementation costs compared to internal ratings. In addition, both exposures located in the banking book and in the trading book can be assigned external rating, making this asset quality indicator relevant for all possible encumbered or unencumbered exposures.

Nevertheless, the use of average ratings or average rating bands by exposure class (in case the average external rating or the average external rating bands for an exposure class are disclosed) will encounter the same operational and interpretation difficulties as for risk-weights. In addition, information on external ratings by exposures may not be readily available separately for encumbered and unencumbered exposures in particular as there is no pre-existing reporting or disclosure requirement of exposures by external rating (disclosure requirements in IFRS 7, in particular IFRS 7.34 and .36(c), do not expressly refer to a breakdown of exposures by external ratings though some banks may already disclose this type of information, following IFRS 7 guidance IG18 and IG23 to IG25).

Even when information on internal ratings of exposures is already available, further difficulties may arise if median values were used, as it would require re-basing available information. More importantly, external ratings may not be suited for an asset quality indicator for all business models. In particular, when encumbrance mostly proceeds from the use of non-rated instruments to secure funding, such as mortgage loans used for covered bonds, external rating may not suffice to provide adequate information on asset quality. For users, external ratings may raise a comparability issue between banks in case different rating agencies or different levels of granularity in disclosures are used. This comparability issue is however expected to be minimal as compared to a situation where internal ratings are used, and could be mitigated by (i) requiring the disclosure of the rating agency used (as it is already required in Article 449 (k) for external rating agencies used in the risk-weighting of securitisation positions) and (ii) requiring a minimum level of granularity to be used.

- **Assets of extremely high liquidity and credit quality (EHQLA) and assets of high liquidity and credit quality (HQLA):** For each exposure class and separately for encumbered and unencumbered assets, would be disclosed assets of extremely high liquidity and credit quality (EHQLA, Level 1 assets) and assets of high liquidity and credit quality (HQLA, Level 2 assets) as defined in Article 416(1) of Regulation (EU) No 575/2013 and specified in Commission Delegated Regulation (EU) 2015/61 (which refers to them as Level 1 and Level 2 assets, respectively). These assets are listed in Article 11, 12, 13 of Commission Delegated Regulation (EU) 2015/61 and comply with the general and operational requirements in Article 7 and 8, as well as with the exposure class-specific requirements in Articles 10 to 16 and 35 to 37 of the aforementioned Delegated Regulation. As the definition of EHQLA and HQLA in the Delegated Regulation restricts these concepts to unencumbered assets, encumbered EHQLA and HQLA would correspond to those assets that meet the conditions in the aforementioned Articles, except that they are encumbered. These assets are notionally eligible to the qualification of

EHQLA or HQLA (ie if these assets were not encumbered they would qualify as EHQLA or HQLA).

Referring to EHQLA and HQLA has the advantage of encompassing a broader spectrum of assets than only the central bank's eligible assets. It also avoids possible gaps in disclosure for banks that cannot establish central bank eligibility for some or all of their assets and off-balance sheet assets. In addition EHQLA and HQLA are an indicator of asset quality whose understanding by users may be simpler than disclosures by risk-weights or risk-weight bands, including if median values were used for disclosure. This indicator also allows to better link the disclosure on asset encumbrance to the liquidity framework, whereas the ESRB recommendations expressly refer to the need to take the liquidity framework into consideration. Lastly, due to their comprehensive definition in the Delegated Regulation, the concepts of EHQLA and HQLA are likely to pose less comparability issues for users than other asset quality indicators.

The EBA chose to refer to all conditions listed in the Delegated Regulation for the identification of EHQLA and HQLA, including operational requirements, so as not to create a hybrid category of assets of high liquidity and credit quality (ie assets that would meet some conditions in the Delegated Regulation but not all, thereby being considered as of high credit and liquidity quality for the purpose of encumbrance but not from a liquidity point of view), for which the monitoring and the identification of encumbered and unencumbered assets may be more complex for institutions. Referring to EHQLA and HQLA indeed allow institutions to leverage on data already available in the supervisory reporting on liquidity. Although there is no data on EHQLA and HQLA in the supervisory reporting on asset encumbrance, the unencumbered nature of EHQLA and HQLA eases the identification of these assets along these lines – it is expected that due to the requirements from the liquidity framework institutions are able to identify and monitor without undue cost or effort those assets that would qualify as EHQLA and HQLA safe for their encumbered status.

While the use of median values can create complexity like for the other asset quality indicators, in the sense that the supervisory reporting on liquidity uses end of period values, and therefore information on median values is not readily available in supervisory reporting, the availability of end of period figures for EHQLA and HQLA in supervisory reporting is likely to ease the computation of median values for the purpose of disclosure on asset encumbrance compared to other asset quality indicators. To further ease the calculation, it is proposed to disclose the median value of EHQLA and HQLA before the application of the haircuts specified in Articles 10 to 16 of Commission Delegated Regulation (EU) 2015/61.

In addition, the use of the concept of notional EHQLA and notional HQLA for encumbered assets is not expected to give rise to too much complexity for credit institutions. Indeed, credit institutions are required to monitor unencumbered assets that qualify for HQLA and EHQLA, and therefore can be expected to be in position to monitor without undue cost or effort those assets that would qualify for EHQLA or HQLA had they not been encumbered.

However, the spectrum of assets covered may be more restricted than under the traditional asset quality indicators or under the disclosures by risk-weight or internal ratings, especially

as limited types of loans (mainly loans to or guaranteed by public sector counterparties) may qualify. This may render this asset quality indicator less relevant for institutions whose encumbrance mostly derives from the issuance of covered bonds.

Considering the need to ensure that the asset quality indicator disclosed provides meaningful information is easily understandable and comparable for users while imposing minimum extra operational complexity to institutions in comparison to existing reporting and disclosure requirements, in particular if median values were to be used as a basis for disclosure, the EBA believes that EHQLA/HQLA is the most suitable asset quality indicator. It is recognized that the scope of this indicator in terms of asset coverage for exposures in the banking book may not be as broad as with other indicators, such as the traditional asset quality indicators, risk weights and internal and external ratings. Nevertheless, the use of these other asset quality indicators instead of EHQLA/HQLA may be more operationally complex, in particular as it requires deriving figures – possibly under median values - for encumbered and unencumbered assets that may not currently be available. In addition, disclosure using other asset quality may necessitate a high level of granularity to be meaningful to users, and present risks regarding their comparability.

Q4. Do you agree with the disclosure of assets of extremely high liquidity and credit quality (EHQLA) and assets of high liquidity and credit quality (HQLA) in accordance with Commission Delegated Regulation (EU) 2015/61 as the most relevant information possible in terms of asset quality of encumbered and unencumbered assets? Please provide reasons for your answer. In case you disagree with the disclosure of the EHQLA and HQLA metrics, please indicate the most appropriate alternative metrics according to you (central bank eligibility, traditional asset quality indicator, risk-weights, internal rating/asset quality step, external rating, or another indicator) for providing relevant information on the asset quality of encumbered and unencumbered assets.

e. Qualitative information

The level of asset encumbrance observed in different institutions depends heavily on their business models and how those models impact their respective funding choices or requirements to pledge collateral. This is why qualitative information on the disclosed figures are especially important. This all the more important since median values are used for the disclosures, as median give a more stable picture of the encumbrance levels over a period by smoothing the changes that occurred during a given period.

This is why the extent of qualitative information to be provided has significantly been enhanced compared to the Guidelines, and includes information about the incidence of the business model in general or the structure of the group on the level of asset encumbrance, as well as requests for information on retained ABS and covered bonds, and clarifications on the different concepts of encumbered, pledged and transferred. Limited flexibility granted in the templates is expected to allow the support of this qualitative information by relevant quantitative data, especially for the incidence of the business model on the level of encumbrance.

Q5. Do you agree with the qualitative disclosure requirements in Template D? In case of disagreement, please identify any requirement you disagree with or state any disclosure requirement you would like to see enhanced or included in Template D.

f. Frequency of disclosure

Article 433 of the CRR requires institutions to publish disclosures of part eight CRR (Pillar 3 disclosures) at least on an annual basis and to assess the need to publish some or all disclosures more frequently than annually. The EBA guidelines on materiality, proprietary and confidentiality and on disclosure frequency under 432 (1), 432(2) and 433 of the CRR (EBA/GL/2014/14) specify the assessment of the frequency.

The EBA is cognisant that users of the disclosures may find greater value in a publication more frequent than annual. The relevance of data which can be up to one year old may be low. In particular those institutions that are significantly involved in activities that generate asset encumbrance. For this reason the draft RTS references the EBA Guideline 2014/14, which among other things sets out criteria according to which institutions, such as G-SIIs and those with exposures higher than €30 billion, may especially consider disclosing information more often.

**Q6. Does the proposed annual disclosure frequency meet the needs of users for transparency?
Please provide reasons for your answer.**

4. Draft regulatory technical standards

COMMISSION DELEGATED REGULATION (EU) No .../..**of XXX****[...]****supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for disclosure of encumbered and unencumbered assets**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms amending Regulation (EU) No 648/2012¹⁸, and in particular the fourth subparagraph of Article 443 thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 443 of Regulation (EU) No 575/2013, the European Banking Authority (EBA) issued guidelines on disclosure of encumbered and unencumbered assets on 27 June 2014. Further, the second subparagraph of Article 443 of Regulation (EU) No 575/2013 provides for the development by EBA of draft regulatory technical standards to specify disclosure of the balance sheet value per exposure class broken down by asset quality and the total amount of the balance sheet value that is unencumbered, taking into account Recommendation of the European Systemic Risk Board of 20 December 2012 on funding of credit institutions (ESRB/2012/2)¹⁹ and conditional on EBA considering in its report that such additional disclosure offers reliable and meaningful information. The EBA September 2015 report on asset encumbrance concluded that disclosure by institutions about encumbrance in the Union is vitally important, as it allows market participants to better understand and analyse the liquidity and solvency profiles of institutions and to compare them in a clear and consistent manner across member states. Based on the report findings, the EBA considered it necessary to develop draft regulatory technical standards in order to ensure a fully harmonised approach of asset encumbrance disclosure.

¹⁸ OJ, L 176, 27.06.2013, p.1.

¹⁹ OJ, C 119, 25.04.2013, p.1.

- (2) The EBA guidelines of 27 June 2014, covered both encumbered and unencumbered assets. This is because the first subparagraph of Article 443 of Regulation (EU) No 575/2013 requires taking into account Recommendation ESRB/2012/2 and in particular point 1(a) of Recommendation D - Market transparency on asset encumbrance, which recommends disclosure of encumbered and unencumbered assets. The second subparagraph of Article 443 of Regulation (EU) No 575/2013, also requires taking into account of that Recommendation when drafting the draft regulatory technical standards referred to therein. Further, covering encumbered assets is necessary to ensure that such disclosure offers reliable and meaningful information. Therefore, this Regulation should cover both encumbered and unencumbered assets.
- (3) In developing its guidelines of 27 June 2014, the EBA was recommended in Recommendation D of ESRB/2012/2 to ensure that the level and evolution of assets encumbered to central banks, as well as the amount of liquidity assistance given by central banks, cannot be detected. The EBA has taken this recommendation into consideration when developing this Regulation.
- (4) Encumbered assets or collateral received and other off-balance sheet items may in particular be pledged to secure funding. Therefore, in order to allow market participants to better understand and analyse the liquidity and solvency profiles of institutions and allow market participants to access information on the availability of assets to secure funding, institutions should disclose separately the encumbrance of all on-balance sheet assets and all off-balance sheet items, including all collateral received, arising from all on-balance sheet and off-balance sheet transactions regardless of their maturity, including all operations with central banks. Nevertheless, while assets disclosed as encumbered include assets encumbered as a result of all operations with any counterparty including central banks, by taking into consideration Recommendation D of ESRB 2012/2 it is not necessary to disclose the encumbrance resulting from operations with central banks separately from the encumbrance resulting from operations with other counterparties. This is without prejudice to the possibility of central banks to define the modalities for the disclosure of emergency liquidity assistance and its consequences on encumbrance.
- (5) In order to ensure consistency and promote comparability and transparency, the instructions for completing the disclosure templates on encumbrance of this Regulation are based on the reporting requirements on encumbrance of Commission Implementing Regulation (EU) No 680/2014. However, the benefits that comparability and transparency confer need to be considered alongside the concern of causing unintended consequences such as the ability to identify emergency central bank funding. For that reason, and taking into account Recommendation D of ESRB/2012/2, this Regulation requires that the disclosure of information should be based on median values rather than point in time values as required in Commission Implementing Regulation (EU) No 680/2014. Likewise, for the same aforementioned reason, the level of granularity of information required to be disclosed under this Regulation for specific values and transactions has been reduced compared to the reporting requirements set out in Commission Implementing Regulation (EU) No 680/2014. Lastly, because asset encumbrance heavily depends on the risk profile and business model of an institution, and as referred to in point (b) of paragraph 1 of Recommendation D of ESRB/2012/2, this Regulation supplements the quantitative data with narrative information as well.

- (6) The general provisions in Part I, Title II of Regulation (EU) No 575/2013 regarding the level of application of the disclosure requirements apply in relation to the disclosure of asset encumbrance as well.
- (7) Similarly, the general provisions of Part Eight of Regulation (EU) No 575/2013 on disclosures, apply in relation to asset encumbrance disclosures as well. As a result, information can be omitted in disclosures when it is not regarded as material or is regarded as confidential or proprietary in accordance with Article 432(1) and (2) of Regulation (EU) No 575/2013 and where applicable, as specified, by the EBA Guidelines on materiality, proprietary and confidentiality and on disclosure frequency under Articles 432(1), 432(2) and 433 of Regulation (EU) No 575/2013 (EBA/GL/2014/14). Further, institutions are required to assess the need to publish some or all of the disclosures required in this Regulation more frequently than annually in the light of the criteria specified in the third subparagraph of Article 433 of Regulation (EU) No 575/2013, as further specified in the above guidelines. Lastly, institutions are required to disclose information on asset encumbrance in the location and the manner referred to in Article 434 of Regulation (EU) No 575/2013.
- (8) Moreover, in accordance with the second subparagraph of Article 433 of Regulation (EU) No 575/2013, institutions are required to publish their annual disclosures on asset encumbrance in conjunction with the date of publication of the financial statements. Given the recommendations of ESRB/2012/2 and considering the general market practice regarding the disclosure of regulatory information required by Part Eight of Regulation (EU) No 575/2013, annual disclosures on asset encumbrance are expected to be published no later than six months after the reference date of the annual financial statements.
- (9) The disclosure requirements in this Regulation are no substitute for the disclosure requirements in the applicable accounting framework, especially regarding transferred and pledged assets, as well as off-balance sheet collateral received and posted.
- (10) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.
- (11) EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010²⁰,

HAS ADOPTED THIS REGULATION:

Article 1

Requirements for disclosure

1. Institutions shall disclose the amount of encumbered and unencumbered assets under the applicable accounting framework by asset type as set out in Template A of Annex I, in accordance with the instructions referred to in Annex II.

²⁰ OJ L 331, 15.12.2010, p. 12.

2. Institutions shall disclose information on collateral received by asset type as set out in Template B of Annex I, in accordance with the instructions referred to in Annex II.
3. Institutions shall disclose the liabilities associated with encumbered assets and collateral received as set out in Template C of Annex I, in accordance with the instructions referred to in Annex II.
4. Institutions shall disclose narrative information relating to the impact of their business model on their level of encumbrance and the importance of encumbrance in their business model as set out in Template D of Annex I, in accordance with the instructions referred to in Annex II.

Article 2

Entry into force

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

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

Done at Brussels,

For the Commission
The President

[For the Commission
On behalf of the President

[Position]

ANNEX I – Disclosure templates

Template A: Assets

Template B: Collateral received

Template C: Encumbered assets / collateral received and associated liabilities

Template D: Accompanying narrative information on the impact of the business model on assets encumbrance and the importance of encumbrance to the institution's business model

ANNEX II – Instructions for completing the disclosure templates

Instructions applying to templates A to D

1. Institutions shall disclose the items referred to in the Tables below, in the same manner as those items are reported in Annex XVI of Regulation (EU) No 680/2014 unless otherwise specifically provided in Tables 1 to 7 below.
2. The items referred to in paragraph 1 shall be disclosed using median values. Median values shall be rolling quarterly medians over the previous twelve months and shall be determined by interpolation.

Template A – Encumbered and unencumbered assets

Table 1: instructions for specific rows of Template A

Rows	Legal references and instructions
010	Assets of the institution [IAS 1.9 (a), Implementation Guidance (IG) 6] Total assets of the institution registered in its balance sheet. The value disclosed in this row shall be the median of the sum of four quarterly end of period values over the previous twelve months for rows 030, 040 and 120.
030	Equity instruments The median values of the item ‘Equity instruments’ as reported in row 030 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.
040	Debt securities The median values of the item ‘Debt securities’ as reported in row 040 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014
050	of which: covered bonds The median values of the item ‘of which: covered bonds’ as reported in row 050 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.
060	of which: asset-backed securities The median values of the item ‘of which: asset-backed securities’ as reported in row 060 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.
070	of which: issued by general governments The median values of the item ‘of which: issued by general governments’ as reported in row 070 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.
080	of which: issued by financial corporations The median values of the item ‘of which: issued by financial corporations’ as reported in row 080 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.
090	of which: issued by non-financial corporations The median values of the item ‘of which: issued by non-financial corporations’ as reported in row 090 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.
120	Other assets The median value of other assets of the institution registered in the balance sheet other than those disclosed in the above rows and different from own debt securities and own debt equity instruments that may not be derecognised from the balance sheet by a non-IFRS institution. In this case, own debt instruments shall be included in row 240 of the

	<p>Template B and own equity instruments excluded from the asset encumbrance reporting.</p> <p>Other assets include, <i>inter alia</i>, cash on hand (holding of national and foreign banknotes and coins in circulation that are commonly used to make payments), loans on demand [IAS 1.54(i)]including the balances receivable on demand at central banks and other institutions as reported in row 020 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014. Other assets also include, loans and advances other than loans on demand including mortgage loans as reported in rows 100 and 110 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014. Other assets may also include intangible assets, including goodwill, deferred tax assets, property, plant and other fixed assets, derivative assets, reverse repo and stock borrowing receivables.</p> <p>When they are loans on demands or loans and advances other than loans and demand, underlying assets and cover pool assets of retained ABS and retained covered bonds shall also be included in this row.</p>
121	<p>of which: ...</p> <p>Where relevant in the context of their use of encumbrance in relation to their business model, institutions may identify separately the median value of any component of “Other assets” in a dedicated “of which” row.</p>

Table 2: instructions for specific columns of Template A

Columns	Legal references and instructions
010	<p>Carrying amount of encumbered assets</p> <p>The median value of the carrying amount of the assets held by the institution that are encumbered according to the definition provided of asset encumbrance. Carrying amount means the amount reported in the asset side of the balance sheet.</p>
030	<p>of which: notionally eligible EHQLA and HQLA</p> <p>The median value of the carrying amount of encumbered assets that are notionally eligible to the qualification of assets of extremely high liquidity and credit quality (EHQLA) and assets of high liquidity and credit quality (HQLA). For the purpose of this Regulation, notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA are those assets listed in Article 11, Article 12 and Article 13 of Commission Delegated Regulation (EU) 2015/61 and that would comply with the general and operational requirements in Article 7 and Article 8 of that Delegated Regulation, except for their status as encumbered assets in accordance with Annex XVII of Regulation (EU) No 680/2014. Notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA shall also comply with the exposure class-specific requirements in Articles 10 to 16 and 35 to 37 of the said Delegated Regulation. The carrying amount of notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA shall be before the application of the haircuts specified in Articles 10 to 16 of Commission Delegated Regulation (EU) 2015/61.</p>
040	<p>Fair value of encumbered assets</p> <p>The median value of the item “Fair value of encumbered assets” as reported in column 040 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.</p> <p>For each exposure class, fair value disclosed is the median value of the different fair values observed at the end of each reporting period considered for the computation of the median.</p>
050	<p>of which: notionally eligible EHQLA and HQLA</p>

	<p>The median value of the fair value of encumbered assets that are notionally eligible to the qualification of Extremely High Quality Liquid Assets (EHQLA) and of High Quality Liquid Assets (HQLA). For the purpose of this Regulation, notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA are those assets listed in Article 11, Article 12 and Article 13 of Commission Delegated Regulation (EU) 2015/61 and that would comply with the general and operational requirements in Article 7 and Article 8 of that Delegated Regulation, except for their status as encumbered assets in accordance with Annex XVII of Regulation (EU) No 680/2014. Notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA shall also comply with the exposure class-specific requirements in Articles 10 to 16 and 35 to 37 of the said Delegated Regulation. The fair value of notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA shall be before the application of the haircuts specified in Articles 10 to 16 of Commission Delegated Regulation (EU) 2015/61.</p>
060	<p>Carrying amount of non-encumbered assets The median value of the item “Carrying amount of non-encumbered assets” as reported in column 060 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.</p>
080	<p>of which: EHQLA and HQLA The median value of the carrying amount of non-encumbered assets of extremely high liquidity and credit quality (EHQLA) and assets of high liquidity and credit quality (HQLA) as listed in Article 11, Article 12 and Article 13 of Commission Delegated Regulation (EU) 2015/61 and that comply with the general and operational requirements in Article 7 and Article 8, as well as with the exposure class-specific requirements in Articles 10 to 16 and 35 to 37 of the said Delegated Regulation. The carrying amount of EHQLA and HQLA shall be before the application of the haircuts specified in Articles 10 to 16 of Commission Delegated Regulation (EU) 2015/61.</p>
090	<p>Fair value of non-encumbered assets The median value of the item “Fair value of non-encumbered assets” as reported in column 090 of Template F 32.01 (AE-ASS) of Annex XVI of Regulation (EU) No 680/2014.</p> <p>For each exposure class, fair value disclosed is the median value of the different fair values observed at the end of each reporting period considered for the computation of the median.</p>
100	<p>of which: EHQLA and HQLA The median value of the fair value of non-encumbered assets of extremely high liquidity and credit quality (EHQLA) and assets of high liquidity and credit quality (HQLA) as listed in Article 11, Article 12 and Article 13 of Commission Delegated Regulation (EU) 2015/61 and that comply with the general and operational requirements in Article 7 and Article 8, as well as with the exposure class-specific requirements in Articles 10 to 16 and 35 to 37 of the said Delegated Regulation. The fair value of EHQLA and HQLA shall be before the application of the haircuts specified in Articles 10 to 16 of Commission Delegated Regulation (EU) 2015/61.</p>

Template B – Collateral

Table 3: instructions for specific rows of Template B

Rows	Legal references and instructions
130	Collateral received by the institution

	All classes of collateral received by the institution. All securities received by a borrower institution in any securities borrowing transactions shall be disclosed in template B shall be disclosed in this row. The total collateral received by the institution is the median of the sum of four quarterly end of period values over the previous twelve months for rows 140 to 160, 220 and 230.
140	Loans on demand The median value of collateral received by the institution that comprises loans on demand. (See legal references and instructions regarding row 120 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
150	Equity instruments The median value of collateral received by the institution that comprises equity instruments. (See legal references and instructions regarding row 030 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
160	Debt securities The median value of collateral received by the institution that comprises debt securities. (See legal references and instructions regarding row 040 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
170	of which: covered bonds The median value of collateral received by the institution that comprises covered bonds. (See legal references and instructions regarding row 050 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
180	of which: asset-backed securities The median value of collateral received by the institution that comprises asset-backed securities. (See legal references and instructions regarding row 060 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
190	of which: issued by general governments The median value of collateral received by the institution that comprises debt securities issued by general governments. (See legal references and instructions regarding row 070 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
200	of which: issued by financial corporations The median value of collateral received by the institution that comprises debt securities issued by financial corporations. (See legal references and instructions regarding row 080 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
210	of which: issued by non-financial corporations The median value of collateral received by the institution that comprises debt securities issued by non-financial corporations. (See legal references and instructions regarding row 090 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.
220	Loans and advances other than loans on demand The median value of collateral received by the institution that comprises loans and advances other than loans on demand. (See legal references and instructions regarding row 120 of Template A). It includes all securities received by a borrower institution in any

	securities borrowing transactions shall be disclosed in Template B.
230	<p>Other collateral received</p> <p>The median value of collateral received by the institution that comprises other assets. (See legal references and instructions regarding row 120 of Template A). It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.</p>
231	<p>of which: ...</p> <p>Where relevant in the context of their use of encumbrance in relation to their business model, institutions may identify separately the median value of any component of “Other collateral” in a dedicated “of which” row. It includes all securities received by a borrower institution in any securities borrowing transactions shall be disclosed in Template B.</p>
240	<p>Own debt securities issued other than own covered bonds or ABSs</p> <p>The median value of the item “Own debt securities issued other than own covered bonds or ABSs” as reported in row 240 of Template F 32.02 (AE-COL) of Annex XVI of Regulation (EU) No 680/2014.</p>
241	<p>Own covered bonds and asset-backed securities issued and not yet pledged</p> <p>The median value of the item “Own covered bonds and asset-backed securities issued and not yet pledged” as reported in row 010 of Template F 32.03 (AE-NPL) of Annex XVI of Regulation (EU) No 680/2014.</p> <p>To avoid double counting, the following rule applies in relation to own covered bonds and asset-backed securities issued and retained by the reporting institution:</p> <p>(a) where those securities are pledged, the amount of the cover pool/underlying assets that are backing them shall be disclosed in Template A as encumbered assets. The source of funding in the event of pledging own covered bonds and asset-backed securities is the new transaction in which the securities are being pledged (central bank funding or other type of secured funding) and not the original issuance of covered bonds or asset-backed securities;</p> <p>(b) where those securities are not yet pledged, the amount of the cover pool/underlying assets that are backing those securities shall be reported in Template A as non-encumbered assets.</p>
250	<p>TOTAL ASSETS, COLLATERAL RECEIVED AND OWN DEBT SECURITIES ISSUED</p> <p>All assets of the institution registered in its balance sheet, all classes of collateral received by the institution and own debt securities issued retained by the institution that are not own covered bonds issued or own asset-backed securities issued.</p> <p>This row is the median of the sum of four quarterly end of period values over the previous twelve months for row 010 in Template A with rows 130 and 240 in Template B.</p>

Table 4: instructions for specific columns of Template B

Columns	Legal references and instructions
010	<p>Fair value of encumbered collateral received or own debt securities issued</p> <p>The median of the fair value of the collateral received, including in any securities borrowing transaction, or own debt securities issued held/retained by the institution that are encumbered according to the definition provided of asset encumbrance.</p> <p>Fair value of a financial instrument is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the</p>

	measurement date. (See IFRS 13 Fair Value Measurement.)For each item of collateral, fair value disclosed is the median value of the different fair values observed at the end of each reporting period considered for the computation of the median.
030	<p>of which: notionally eligible EHQLA and HQLA</p> <p>The median value of the fair value of the encumbered collateral received, including in any securities borrowing transaction, or own debt securities issued held/retained by the institution that are notionally eligible to the qualification of Extremely High Quality Liquid Assets (EHQLA) and High Quality Liquid Assets (HQLA). For the purpose of this Regulation, notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA are items of collateral received or own debt securities issued held/retained by the institution listed in Article 11, Article 12 and Article 13 of Commission Delegated Regulation (EU) 2015/61 and that would comply with the general and operational requirements in Article 7 and Article 8 of that Delegated Regulation, except for their status as encumbered assets in accordance with Annex XVII of Regulation (EU) 680/2014. Notionally eligible encumbered EHQLA and encumbered HQLA shall also comply with the exposure class-specific requirements in Articles 10 to 16 and 35 to 37 of the said Delegated Regulation. The fair value of notionally eligible encumbered EHQLA and notionally eligible encumbered HQLA shall be before the application of the haircuts specified in Articles 10 to 16 of Commission Delegated Regulation (EU) 2015/61.</p>
040	<p>Fair value of collateral received or own debt securities issued available for encumbrance</p> <p>The median of the fair value of the collateral received, including in any securities borrowing transaction, by the institution that are non-encumbered but are available for encumbrance since the institution is permitted to sell or re-pledge it in absence of default by the owner of the collateral. It also includes the fair value of own debt securities issued, other than own covered bonds or securitisations that are non-encumbered but available for encumbrance. For each item of collateral, fair value disclosed is the median value of the different fair values observed at the end of each reporting period considered for the computation of the median.</p>
060	<p>of which: EHQLA and HQLA</p> <p>The median value of the fair value of the unencumbered collateral received or own debt securities issued held/retained by the institution other than own covered bonds or securitisations available for encumbrance which qualify as Extremely High Quality Liquid Assets and of High Quality Liquid Assets as listed in Article 11, Article 12 and Article 13 of Commission Delegated Regulation (EU) 2015/61 and that comply with the general and operational requirements in Article 7 and Article 8, as well as with the exposure class-specific requirements in Articles 10 to 16 and 35 to 37 of the said Delegated Regulation. The fair value of EHQLA and HQLA shall be before the application of the haircuts specified in Articles 10 to 16 of Commission Delegated Regulation (EU) 2015/61.</p>

Template C – Sources of encumbrance

Table 5: instructions for specific rows of Template C

Rows	Legal references and instructions
010	Carrying amount of selected financial liabilities

	The median value of the item “Carrying amount of selected financial liabilities” as reported in row 010 of Template F 32.04 (AE-SOU) of Annex XVI of Regulation (EU) No 680/2014.
011	<p>of which: ...</p> <p>Where relevant in the context of their use of encumbrance in relation to their business model, institutions may identify separately the median value of any component of “Carrying amount of selected financial liabilities” in a dedicated “of which” row, especially in case part of the encumbrance of assets is associated with liabilities and another part is not.</p>

Table 6: instructions for specific columns of Template C

Columns	Legal references and instructions
010	<p>Matching liabilities, contingent liabilities or securities lent</p> <p>The median values of the item “Matching liabilities, contingent liabilities or securities lent” as reported in column 010 of Template F 32.04 (AE-SOU) of Annex XVI of Regulation (EU) No 680/2014. Fair value disclosed is the median value of the different fair values observed at the end of each reporting period considered for the computation of the median.</p> <p>Liabilities without any associated funding, such as derivatives, shall be included.</p>
030	<p>Assets, collateral received and own securities issued other than covered bonds and asset-backed securities encumbered</p> <p>Amount of the assets, collateral received and own securities issued other than covered bonds and asset-backed securities that are encumbered as a result of the different type of transactions specified in the rows.</p> <p>To ensure consistency with the criteria in the templates Template A and Template B, assets of the institution registered in the balance sheet are disclosed at the median value of their carrying amount, re-used collateral received and encumbered own securities issued other than covered bonds and asset-backed securities are disclosed at the median value of their fair value. Fair value disclosed is the median value of the different fair values observed at the end of each reporting period considered for the computation of the median.</p> <p>Assets encumbered without matching liabilities are also included.</p>

Template D – Accompanying narrative information on the impact of the business model on assets encumbrance and the importance of encumbrance to the institution’s business model

Table 7: Specific instructions for Template D

Legal references and instructions
<p>Narrative information that provides users with the context of the disclosures required in Template A to C.</p> <p>In order to complete template D, institutions shall disclose the following information:</p> <p>(a) General narrative information on asset encumbrance, including:</p> <p style="padding-left: 40px;">i. any difference between the regulatory consolidation scope used for the purpose</p>

of the disclosures on asset encumbrance and the scope retained for the application of the liquidity requirements on a consolidated basis as defined in Part II, Chapter 2 of Regulation (EU) No 575/2013;

- II. explanation about the differences between, on the one hand pledged and transferred assets in accordance with the applicable accounting frameworks and as applied by the institution, and on the other hand encumbered assets. Institutions shall identify the difference of treatment of transactions, such as when some transactions are deemed to lead to pledge or transfer of assets but not to encumbrance of assets, or vice versa;
- III. the exposure value used for the purposes of disclosure and how this exposure value is derived when it is not an end of period value;

(b) Narrative information relating to the impact of the institution's business model on its level of encumbrance and the importance of encumbrance on the institution's funding model. This information shall include at least the following aspects, where relevant:

- I. main sources and types of encumbrance, detailing, where applicable, encumbrance due to significant activities with derivatives, securities lending, repos, covered bonds issuance and securitisation;
- II. structure of encumbrance between entities within a group, and especially whether the encumbrance level of the consolidated group stems from particular entities and whether there is significant intragroup encumbrance;
- III. information on over-collateralisation, especially regarding covered bonds and asset-backed securities, and the incidence of over-collateralisation on the levels of encumbrance;
- IV. information on encumbrance of assets, collateral and off-balance sheet items and the sources of encumbrance by significant currency as referred to in Article 415(2) of Regulation (EU) No 575/2013, where disclosure is made using a currency other than the one used with the disclosure requirements of that Regulation;
- V. general description of the proportion of items included in column 060 'Carrying amount of unencumbered assets' in Template A of the Annex I that the institution would not deem available for encumbrance in the normal course of its business (e.g. intangible assets, including goodwill, deferred tax assets, property, plant and other fixed assets, derivative assets, reverse repo and stock borrowing receivables);
- VI. amount of underlying assets and of cover pool assets of retained ABS and retained covered bonds, and whether those underlying and cover pool assets are encumbered or unencumbered, along with the amount of associated retained ABS and retained covered bonds;

- VII. where relevant for explaining the impact of their business model on their level of encumbrance, details (including quantitative information if relevant) on both of the following:
- (i) the types and amounts of encumbered and unencumbered assets included in row 120 of Template A, where quantitative information shall be provided in row 121 of Template A;
 - (ii) the amounts and types of encumbered assets and off-balance sheet items included in row 010 of Template C that are not associated with any liabilities, where quantitative information shall be provided in row 011 of Template C.

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

Draft Regulatory and Implementing Technical Standards (RTS and ITS) have to be accompanied with an impact assessment according to the Article 10(1) of the EBA Regulation²¹.

Article 443 of the CRR mandates the EBA to develop draft regulatory technical standards to specify disclosure of the balance sheet value per exposure class broken down by asset quality and the total amount of the balance sheet value that is unencumbered, taking into account Recommendation ESRB/2012/2 and conditional on EBA considering in its report that such additional disclosure offers reliable and meaningful information.

A. Problem identification

Issues identified by the Commission and the ESRB regarding transparency requirements on asset encumbrance

The mandate for the EBA to draft guidelines on disclosure requirements covering asset encumbrance is an outcome of the negotiations between the European Commission, the European Council and the European Parliament. Therefore, no specific reference is made to the concept of asset encumbrance in the impact assessment document accompanying the July 2011 proposal of the CRD IV/CRR, or to any of the elements justifying regulatory intervention.

In February 2013, the ESRB published a report on bank funding that, among other topics, gathers evidence on the materiality of asset encumbrance in Europe and describes some of the associated risks. The report backs a series of ESRB recommendations on the subject of bank funding: Recommendation D ('Market transparency on asset encumbrance'), in particular, recommends that the EBA develop guidelines on transparency requirements for credit institutions on asset encumbrance. The ESRB explicitly asks that, in accordance with these guidelines, institutions should:

- disclose information on the level and evolution of encumbered and unencumbered assets;
- disclose this information half-yearly and supplement it with a breakdown by asset quality if this is deemed useful by the EBA after one year's experience;
- provide users with a narrative, when necessary, giving information that may be useful for understanding the importance of encumbrance in the institution's funding model.

²¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

Current disclosure requirements on asset encumbrance in the accounting and regulatory frameworks are not comprehensive, especially regarding unencumbered assets available for encumbrance, common definitions and common presentation. This variety in granularity and presentation of disclosures has resulted in difficulties for users in assessing and comparing the level of asset encumbrance in EU institutions.

B. Policy objectives

The guidelines specify the format of the templates that credit institutions should use and which information they should report. The requirements proposed in these guidelines aim to achieve the following:

- to provide a disclosure framework and applicable definitions that are as uniform as possible, in order to allow meaningful and clear comparisons between institutions;
- to provide sufficient granularity in reporting so that users of the information have enough elements to assess the levels of encumbrance of the assets held by the institutions.

C. Baseline scenario

The current provisions relating to asset encumbrance disclosure extends to the current Guidelines in place, issued in June 2014 and which these ITS propose to supersede. It is not compulsory for institutions to make the disclosure as it is not a legislative requirement. Furthermore the disclosures called for in the Guidelines are very narrow in scope. This can be evidenced through comparing the discrepancy in detail of the data templates between the asset encumbrance reporting requirements of Implementing Regulation (EU) No 2015/79 related to Article 100 of the CRR and that called for in the Guidelines.

D. Options considered

The EBA has reviewed the existing disclosure requirements in the CRR and in the accounting frameworks (IFRS 7 and Council Directive 86/635). It also considered recommendations issued by the EDTF in its October 2012 report. This was to ensure there was consistency between these ITS and the disclosure requirements, and therefore ease their implementation by institutions.

In addition, the reporting templates and requirements proposed in these ITS follow the recommendations of the ESRB and have been adapted from the asset encumbrance reporting templates proposed by the EBA²², with a view to achieving an adequate level of harmonisation in content and presentation of disclosures. For this reason, very few technical options were available for discussion for these guidelines.

²² Commission Implementing Regulation (EU) 2015/79 of 18 December 2014 amending Implementing Regulation (EU) No 680/2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards asset encumbrance, single data point model and validation rules

The disclosure templates drawn up by the EBA have been adapted to fit the requirements of the ESRB as follows:

- Assets of the reporting institution – this template shows the split between encumbered and unencumbered assets by type of assets.
- Collateral received – this template covers collateral received and own securities issued by an institution and is also split between encumbered and unencumbered assets.
- Associated liabilities – this template covers the amount of selected financial liabilities.

Further to this the EBA considered the technical option of redacting certain specific fields. This consideration was made on the basis of concerns that the disclosure of certain information may lead to financial market instability.

E. Cost-Benefit Analysis

Benefits

The templates provided in the annex to these ITS will provide investors and market analysts with a richer set of information regarding the levels of encumbrance and non-encumbrance of the assets held by an institution. This additional information should enable them to make better judgements regarding the funding practices of a particular institution and to compare them more easily with its peers, thereby increasing market discipline. These ITS will also educate investors to help them make more informed decisions.

Costs

The main costs for institutions will be related to setting up processes to produce the required disclosure templates. The costs will be driven by the complexity of the balance sheet of the institutions. However, because all of the information needed for the disclosure should have already been produced to fill the regulatory reporting templates on asset encumbrance, the EBA expects the direct compliance costs to be minimal.

However, a mandatory disclosure regime may increase pro-cyclicality, because information about increased asset encumbrance tends to raise the demand for collateral with a tight supply of high-quality collateral, at a time when banks need stable funding sources to maintain their lending to the economy. In order to alleviate this risk, these ITS provide that the information should be disclosed based on the median value of the quarterly data of the reporting year rather than a 'point in time'.

Nevertheless, central banks must retain the ability to undertake covert non-conventional liquidity support operations; the covert nature of these operations is critical to financial stability. Disclosing certain information fields on asset encumbrance may allow users of the information to work out whether institutions are resorting to such non-conventional liquidity support operations. The use of such operations implies uncertainty in the institution being a going concern

and therefore leads to instability in that institution and the financial market of the jurisdiction. This would hamper the ability of central bank conducting liquidity support operations and their impact.

F. Preferred option

The EBA proposes to adopt the option of disclosure of encumbered and unencumbered assets, with selected fields redacted on the grounds of financial stability.

5.2 Overview of questions for consultation

1. Given the balance between transparency and the need to avoid detection of central bank liquidity assistance, do you agree with the disclosure requirements proposed in this RTS? Do you agree with the fields in the Templates that are required to be disclosed? Please provide reasons for your answer.
2. Based on your experience with providing information according to the 2014 Guidelines or with using information disclosed as per these Guidelines, do you believe that the use of median values for disclosures offers sufficient relevant information while also addressing potential financial stability concerns or would you prefer disclosure using end of period values? Is there another appropriate value for disclosure? Please provide reasons for your answer.
3. Do you agree that the 'median of the sums' method is the most relevant to be used in calculating a "Total" or "Sub-total" row in case the median values are used for disclosure? Please provide reasons for your answer.
4. Do you agree with the disclosure of assets of extremely high liquidity and credit quality (EHQLA) and assets of high liquidity and credit quality (HQLA) in accordance with Commission Delegated Regulation (EU) 2015/61 as the most relevant information possible in terms of asset quality of encumbered and unencumbered assets? Please provide reasons for your answer. In case you disagree with the disclosure of the EHQLA and HQLA metrics, please indicate the most appropriate alternative metrics according to you (central bank eligibility, traditional asset quality indicator, risk-weights, internal rating/asset quality step, external rating, or another indicator) for providing relevant information on the asset quality of encumbered and unencumbered assets.
5. Do you agree with the qualitative disclosure requirements in Template D? In case of disagreement, please identify any requirement you disagree with or state any disclosure requirement you would like to see enhanced or included in Template D.
6. Does the proposed annual disclosure frequency meet the needs of users for transparency? Please provide reasons for your answer.