

Consultation Response

EBA consultation on the Draft Regulatory Technical Standards on cooperation and colleges of supervisors for third-country branches under Article 48p(7) of Directive 2013/36/EU

10 October 2025

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the **European Banking Authority (EBA) consultation on the Draft Regulatory Technical Standards (RTS) on cooperation and colleges of supervisors for third-country branches under Article 48p(7) of Directive 2013/36/EU**. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is registered on the EU Transparency Register, registration number 65110063986-76. We summarise below our high-level response to the consultation, which is followed by answers to the individual questions raised.

Executive Summary

Our general concern is to ensure that existing joint supervisory frameworks be leveraged to the maximum extent possible, to ensure the most efficient and effective model with least transitional or implementation costs.

Questions

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

While the provisions in Chapter 1 are generally appropriate, they would benefit from greater clarity in certain scenarios, particularly regarding the establishment of colleges where both third-country branches (TCBs) and subsidiaries are present.

The functioning of colleges should also be designed to avoid duplicative reporting and to facilitate effective information sharing between competent authorities, reducing any unnecessary burden on firms.

Additional clarifications as to the scope of data collection would also further enhance the clarity and appropriateness of the provisions

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Establishment of colleges

We thank the EBA for the public workshop on these draft RTS held on 3 September and the helpful flow diagram on the scope of the RTS. However, there remains ambiguity regarding the situation where a third-country group has both TCBs and subsidiaries subject to Article 116 of CRD, but no college has yet been formed.

The draft RTS does not clarify whether, in such cases, a college should be established under Article 48p(2)(a) or Article 48p(2)(c). This lack of clarity could lead to uncertainty or unnecessary changes in the designation of the lead competent authority.

It would be preferable to avoid a situation where a college of supervisors is established with the lead competent authority designated as the NCA of the largest TCB, only for this to be changed once a college of supervisors is established for the subsidiary institutions of the third country group in the EU, under Article 116.

Functioning of colleges and information exchange

Where a third-country group has both a TCB and other group entities (such as subsidiaries) in the EU, the provisions should ensure that the supervisory college structure (including the Joint Supervisory Team model) is sufficiently flexible to incorporate TCBs. This would help prevent duplicative reporting requirements, particularly for information that is identical at the parent level. The RTS should explicitly encourage information sharing between authorities in different Member States to avoid unnecessary duplication and ensure efficient supervision.

Flexibility in light of future regulatory developments

The draft RTS includes provisions (notably Article 14) on information exchange between supervisors, particularly in the context of the SREP process for branches. While these requirements are important, it is noted that Article 48n of CRD VI will be further developed in separate EBA guidelines. Therefore, the current RTS should avoid being overly prescriptive and should remain flexible to accommodate future regulatory developments.

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

The provisions in Chapter 2 are currently very prescriptive regarding the mechanisms and requirements for cooperation and information exchange between supervisory authorities.

While clear guidance is important, the current level of detail may limit the ability of regulators to exercise judgment and adapt their approach to the specific circumstances of each third-country group. Reducing detail in the RTS and allowing the college to rely on principles would ensure that regulators are able to take a pragmatic and proportionate approach to third country groups under their supervision.

Avoidance of duplicative reporting

Where a third-country group operates both a branch and other group entities (such as subsidiaries) in the EU, the provisions should ensure that information exchange mechanisms are designed to prevent duplicative reporting. For example, head undertaking level information that is identical for both the branch and the subsidiary should not be requested multiple times. The RTS should encourage internal information sharing between authorities, including those in different Member States, to streamline supervision and reduce unnecessary administrative burdens both for firms but also the regulators.

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Scope of data collection

The RTS should clarify that the requirement to provide “information of the strategy of the third-country group, with a focus on its presence in the EU and how this strategy fit with the overall one” does not extend to non-banking entities within the group. This would help ensure that reporting requirements are proportionate and focused on relevant entities.

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

As evidenced by our responses to the previous questions, our main concern with respect to the draft RTS is to avoid disproportionate and duplicative reporting obligations. To this end, we consider that better recognition of the TCB's group structure could be made and more emphasis put on supervisory coordination.

Recognition of group structures and existing supervisory frameworks

TCBs and their direct head undertaking are part of the same legal entity and subject to oversight within the group supervisory college and crisis management group at the head undertaking level. As discussed in our responses above, effective cooperation within the supervisory college between the EU regulatory authorities and the home supervisor of the head undertaking is essential to ensure that supervision is proportionate and avoids unnecessary duplication of oversight.

Expanding the Joint Supervisory Team model to include TCBs and fostering internal information sharing between authorities in different Member States would help achieve a more proportionate and efficient supervisory approach

Proportionality

Article 3 of the draft RTS envisages including within the supervisory college the EBA, public authorities responsible for the supervision of markets in financial instruments (presumably including ESMA) and resolution authorities (presumably including the SRB). We would query whether it is appropriate for both the EBA and ECB to be present in the supervisory college where a supervisory college includes both a subsidiary classified as less significant and a branch of a third-country group.

As a general comment, we feel that there is too little clarity on when a supervisory college should include additional authorities including those detailed above, allowing the lead authority to make such invitations “where appropriate”. It is important that subsidiaries and branches are able to engage fully with the members of the supervisory college, in a way that is proportionate to the risk that they pose to the European financial system. If a supervisory college expands to include too many authorities, each who may pursue different lines of inquiry relevant to their specific areas of interest, branches – especially those of limited size, significance or complexity - may be overwhelmed by such requests.

In line with the competitiveness agenda promulgated by European authorities, we would ask for further clarity that third-country branches should be subjective to a proportionate level of supervision, which at minimum does not exceed that expected of subsidiaries, with very specific criteria set for including a broader set of supervisory authorities.

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