



January 2010

## CEBS Guidelines on Supervisory Disclosure<sup>1</sup> - Revised

### Executive Summary

1. This paper sets out CEBS' guidelines for implementing a common European framework for supervisory disclosure. The framework is intended to make supervisory practices more transparent, which should in turn promote the legitimacy and credibility of supervisors from the perspective of the institutions that they supervise. This paper should therefore be of key interest to supervised institutions.
2. The need for transparency is all the more pressing in the context of increasing integration of European financial markets in Europe, which requires consistent implementation of EU legislation and convergence of supervisory practices. CEBS members recognise that supervisory disclosure promotes sound governance and is a powerful tool for convergence of supervisory practices across Europe.
3. The importance of supervisory transparency and accountability has been stressed by the Basel Committee on Banking Supervision and by the new European legislation<sup>2</sup>, which requires supervisors to make disclosures that permit meaningful comparisons of supervisory rules and practices across Europe.
4. The guidelines developed by CEBS implement a framework for supervisory disclosure at both the European and national levels.
5. The framework makes it easier to compare national texts that implement the Capital Requirements Directive (CRD) as amended from time to time, and to compare the ways in which Member States exercise the options and national discretions available to them in the CRD. In addition, the current framework enables institutions to compare the criteria and methodologies that supervisors use in evaluating and reviewing them. Finally, it provides aggregate statistical data on key aspects of the implementation of the

---

<sup>1</sup> For the history of the document use the following link on the CEBS website: <http://www.cebs.org/documents/Publications/Standards---Guidelines/files-from-old-website/GL05.aspx> .

<sup>2</sup> See the Capital Requirements Directive ('the CRD'), which replaced the Consolidated Banking Directive (2000/12/EC) and Capital Adequacy Directive (93/6/EEC), Article 144.



CRD. When first designed in 2007, the scope of the framework was limited to the provisions of the CRD that implement Basel II.

6. The format of disclosures plays an important role in allowing meaningful comparisons. The templates set out in this document seek to permit meaningful comparison in the following ways:
  - Disclosures are accessible via the Internet, using both the CEBS website and national websites, which are linked to each other.
  - CEBS recommends using a common framework, consisting of a series of simple and similar information tables/templates in standard formats which can be posted on websites. These tables are designed to show two complementary levels of detail: summary tables on the CEBS website for ease of cross-country comparisons, linked to tables on the websites of national authorities that provide more detailed information.
7. CEBS has provided templates for these tables. The templates are subject to change as required, to reflect developments in the CRD and in CEBS's work streams.
8. A demonstration of the functionality of the framework is available on the CEBS website at [www.c-eps.org/Supervisory-Disclosure.aspx](http://www.c-eps.org/Supervisory-Disclosure.aspx).
9. The framework is written in English, the working language of CEBS. The information displayed on the CEBS website will be disclosed in English. Information on the national websites of non English-speaking countries will be available in English on a best-efforts basis. In any case, the information should be made available in the national language prior to any translation.
10. In 2005, the CEBS draft guidelines went through a three-month public consultation and overall received a positive response.
11. The framework was to be implemented by CEBS and the national authorities in charge of the supervision of credit institutions and investment firms by year-end 2006 as a target date for qualitative information, and by mid-2008 for the statistical data, recognising that part of the intended content would only be available at that time.
12. In 2009, work on the first update of the framework was started to reflect the development of the CRD and the outcome of CEBS's work on convergence. The revision went through a one month public consultation period and again received generally positive feedback.



## Table of contents of the Guidelines on Supervisory Disclosure - Updated

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>I. INTRODUCTION .....</b>	<b>4</b>
<b>II. TRANSPARENCY OF SUPERVISION.....</b>	<b>7</b>
<b>A. Definition .....</b>	<b>7</b>
<b>B. Objectives .....</b>	<b>8</b>
<b>III. BASIC PRINCIPLES.....</b>	<b>9</b>
<b>IV. MAIN FEATURES .....</b>	<b>10</b>
<b>A. Internet architecture and format of publication .....</b>	<b>10</b>
<b>B. Content of disclosure.....</b>	<b>12</b>
1. Rules and guidance .....	14
2. Options <i>and national discretions</i> .....	19
3. <i>Supervisory review</i> .....	21
4. <i>Statistical data</i> .....	26
<b>C. Updating .....</b>	<b>27</b>
<b>V. THE REVIEW OF THE FRAMEWORK.....</b>	<b>28</b>
<b>ANNEX I – LIST OF CRD PROVISIONS .....</b>	<b>30</b>
<b>ANNEX II - DEFINITIONS FOR CALCULATING THE ‘STATISTICAL DATA’ .....</b>	<b>32</b>
<b>ANNEX III - LIST OF INFORMATION REQUIREMENTS FOR MERGERS &amp; AQUISITIONS.....</b>	<b>41</b>
<b>ANNEX IV – CHANGES TO THE OPTIONS AND NATIONAL DISCRETIONS TEMPLATE .....</b>	<b>49</b>



## I. Introduction

1. Transparency is a key element in effective banking supervision, as evidenced by its inclusion in Principle 1 of the [Core Principles on Effective Banking Supervision](#).<sup>3</sup> The effectiveness of supervision is closely related to the legitimacy and credibility of the competent supervisory authorities. Quite apart from any formal legal requirements, supervisors are accountable to governmental and parliamentary authorities, to the regulated industry, and to the general public for the conduct of supervision. They are accountable both for how they enforce compliance with prudential regulations and for how they foster sound governance practices on the part of the institutions<sup>4</sup> they supervise. Appropriate disclosure by supervisory authorities is desirable to ensure proper accountability, which in turn helps to promote sound governance practices on the part of the supervisors themselves.
2. Supervisory transparency and accountability are also stressed in the Basel Committee on Banking Supervision's ["Revised Framework for International Convergence of Capital Measurement and Capital Standards" \(Basel II\)](#), which notes: "the supervision of banks is not an exact science, and therefore, discretionary elements within the supervisory review process are inevitable. Supervisors must take care to carry out their obligations in a transparent and accountable manner."<sup>5</sup>
3. European supervisory authorities recognise the importance of increased convergence in achieving an integrated banking market. They understand that supervisory disclosure fosters sound governance and promotes convergence of supervisory practices across Europe.

---

<sup>3</sup> Principle 1 states that "an effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banks". This requirement is developed further in the Core Principles Methodology, the implementation guide used by the IMF and the World Bank in their joint Financial Sector Assessment Program (FSAP). The Core Principles Methodology states that supervisory agencies should set out their objectives, should be subject to regular review of their performance against their responsibilities and objectives through a transparent reporting and assessment process, and should ensure that information on the financial strength and performance of the industry under their jurisdiction is publicly available. (see Core Principles Methodology, "additional criteria" for assessing compliance with Core Principle 1 and also IMF Working Paper WP/02/163: "Crisis Prevention and Crisis Management: The Role of Regulatory Governance.")

<sup>4</sup> For the purpose of this paper, 'institutions' refers to both credit institutions and investment firms.

<sup>5</sup> See paragraph 779 of the Revised Framework for International Convergence of Capital Measurement and Capital Standards, June 2006 (<http://www.bis.org/publ/bcbs128.htm>)



4. The role of disclosure is specifically set out in the Capital Requirements Directive ([2006/48/EC as amended](#); in the following: 'the CRD'), which replaced the Consolidated Banking Directive (2000/12/EC) and Capital Adequacy Directive (93/6/EEC). In particular, Article 144 of the CRD provides that:

"1. Competent authorities shall disclose the following information:

- (a) the texts of laws, regulations, administrative rules and general guidance adopted in their Member State in the field of prudential regulation;
- (b) the manner of exercise of the options and discretions available in Community legislation;
- (c) the general criteria and methodologies they use in the review and evaluation referred to in Article 124 of [the CRD](#);
- (d) without prejudice to the provisions laid down in Title V, Chapter 1, Section 2, of the CRD aggregate statistical data on key aspects of the implementation of the prudential framework in each Member State.

The disclosures provided for in the first subparagraph shall be sufficient to enable a meaningful comparison of the approaches adopted by the competent authorities of the different Member States."

5. In addition, the other disclosure provisions in the CRD have been taken into account for the sake of consistency and completeness.<sup>6</sup>

6. What matters here is not so much the volume or the content of disclosure – national authorities already disclose a substantial amount of information – but rather the way in which disclosures are presented<sup>7</sup>.

7. The CRD's requirement that disclosures should be sufficient to enable a meaningful comparison of approaches provides an opportunity to develop a framework for disclosure that ensures a certain degree of standardisation, notably in terms of language and of where the disclosures can be found. In this way, disclosures made by supervisors throughout Europe can be made more readily accessible and easier to compare.

---

<sup>6</sup> See Annex I

<sup>7</sup> Article 150 of the CRD states that the Commission may adopt implementing measures using the Comitology procedure specifying the format, structure, contents list and annual publication date of the disclosures provided for in Article 144, and the key aspects on which aggregate statistical data are to be disclosed under Article 144 (1)(d).



8. The Commission and, at the time, the BAC had asked CEBS to play a leading role in coordinating disclosures by national authorities and, in particular, to design a transparent and efficient common framework in the EU. The framework is constructed along the following lines:
9. The framework focuses primarily on the provisions of the CRD that relate to Basel II. However, in view of the fact that capital requirements are expressed in the form of a ratio, CEBS judged that failing to consider the numerator of the ratio could undermine the usefulness of the disclosures. The CRD's provisions concerning own funds<sup>8</sup> are therefore included in the framework as well. CEBS also recommends including the provisions of the CRD dealing with internal control mechanisms insofar as they relate to the Supervisory Review Process<sup>9</sup> and to Pillar 2 measures. In addition, the framework includes national provisions extending the requirements set forth in the CRD (including Directive 2006/49/EC) to investment firms as well as provisions relating to capital requirements for market risks and to the definition and prudential treatment of the trading book.
10. In 2009, the framework has been extended to the following areas: Mergers & Acquisitions; Securitisation; CRM; National discretions in the CRD (including the Directive 2006/49/EC) and national discretions relating to large exposures in the CRD II<sup>10</sup>; and Pillar 2 (Supervisory Review Process) and Pillar 3.
11. The framework is implemented by CEBS and the national authorities in charge of the prudential supervision of both investment firms and credit institutions.
12. It respects the following principles: a) it simply displays disclosures without interpreting nor validating them; b) it is not meant to limit the capacity of supervisors to act in a flexible and timely manner; and c) no individual decision regarding specific supervised institutions should be disclosed.
13. The revised framework will need to be implemented by 31 March 2010 with the exception of the disclosures of guidelines and methodologies regarding the securitisation exposures to review compliance with paragraphs 1 to 7 of the Article 122a of the CRD II which need to be implemented at the latest by 31 December 2010. The national discretions

---

<sup>8</sup> Articles 56 to 67 of the CRD

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:177:0001:0200:EN:PDF>

<sup>9</sup> Article 22 and Annex V, Section V of the CRD

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:177:0201:0255:EN:PDF>

<sup>10</sup> It was noted that the national discretions currently disclosed in the disclosure framework refer only to the ones introduced by Basel II text in Directives 2006/48/EC and 2006/49/EC.



on large exposures will be included in the national discretions template but their exercise in Member States will be disclosed as of end January 2011.

14. When investment firms are supervised by a different authority to the one that supervises credit institutions, it is expected that coordination in implementing the framework will take place in the countries concerned.
15. The framework is constructed in English. Non English-speaking countries will provide disclosures in English on a best-effort basis, but in any case in their national language prior to any translation<sup>11</sup>. The framework aims at avoiding excessive administrative and translation burden. Its overall structure and format is designed to be simple and flexible enough to be updated and adapted within a reasonable time schedule. It is subject to regular monitoring by the CEBS Secretariat.
16. Disclosures are accessible on the Internet, via the CEBS website and the national supervisory authorities' websites, interacting with each other. To provide a common approach, sets of simple tables in consistent formats<sup>12</sup> are posted on the websites. Of course, the use of Internet will not preclude supervisors also using alternative vehicles for disclosure.
17. This framework is a step towards greater transparency on the part of supervisors. It is also an evolutionary process capable of adapting gradually to future changes in the rules, needs and practices of both supervisors and institutions.

## **II. Transparency of supervision**

### **A. Definition**

18. Supervisory disclosure is defined as a comprehensive policy of transparency. Its aim is to make information related to prudential supervision available in a timely manner to all interested parties, including credit institutions, investment firms, other market participants, other supervisors, and consumers. The framework for supervisory disclosure is meant only to provide information. It is not meant to limit in any way the ability of individual national supervisors to act in a flexible, timely and independent manner, when required.

---

<sup>11</sup> CEBS has noted that in many countries only the texts in the national language are deemed to have legal force.

<sup>12</sup> These tables are subject to changes following developments in the CRD and the CEBS's work.



## **B. Objectives**

19. The supervisory disclosure framework has two main goals:
  - *Enhancing the effectiveness of supervision*, by facilitating interaction between institutions and competent authorities; addressing the legitimate expectations of institutions, which need clarity and transparency of the rules they must comply with; and providing easy access to the disclosed information.
  - *Helping to promote a level-playing field throughout Europe*, by facilitating meaningful comparisons of supervisory approaches. Disclosure can be viewed as one tool among many for promoting convergence in supervisory practices across Europe.
20. In this respect, the disclosure framework will serve to enhance the transparency of the legislative and regulatory processes in each Member State for the implementation of the CRD.
21. The primary users of the disclosure framework are the supervised institutions, other market participants, and competent authorities. All of them should benefit from a more user-friendly framework that contributes to an improved exchange of information.
22. The framework is designed to satisfy the requirements of the CRD and to permit meaningful comparisons of the approaches adopted by national supervisors. Achieving these objectives calls for different approaches to each of the sub-paragraphs of Article 144 of the CRD.
23. Specifically:
  - When disclosing the texts of laws, regulations, administrative rules, and general guidance under Article 144(1)(a), the emphasis should be on providing the most exhaustive and up-to-date information. However, when disclosing the manner of exercise of the options and national discretions under Article 144(1)(b), enabling end-users to make quick and meaningful comparisons should be considered a more important objective than providing exhaustive information in a single location.
  - The disclosure under Article 144(1)(c) of supervisory review criteria and methodologies referred to in Article 124 is viewed as a tool to help institutions understand broadly how competent authorities will assess the systems and procedures required by the CRD. It may also provide an incentive for institutions to improve their own risk-management systems and procedures.
  - The disclosure of aggregate statistical data under Article 144(1)(d) is intended to provide general information on the national banking sectors as well as on the implementation process in each Member





State. The disclosures should cover both Pillar 1 and Pillar 2, with aggregate data reported in comparable terms over time.

### **III. Basic principles**

24. The supervisory disclosure framework is based on the following set of principles:
- i. The framework must be neutral with regard to the legal framework of each Member State. It aims at simply recording and transmitting factual information, without seeking to interpret or validate the disclosures. Moreover, the framework must not conflict with the normal process of transposing European legislation into national laws or regulations, which does not rely exclusively on supervisory authorities, but is legally the responsibility of the Member States under the Treaties.
  - ii. The members of CEBS recognise that making disclosures in a common language facilitates meaningful comparisons between the approaches adopted by the competent authorities in different Member States. The framework is therefore constructed in English, the working language of CEBS. All the information displayed on the CEBS website - including short texts such as the executive summaries required under Article 144(1)(c) - will be in English. The texts and documents disclosed on national websites under the framework will be made available in English on a best-effort basis by the non English-speaking countries. They should at a minimum make their national texts available in their own language prior to any translation, and, for the sake of clarity, should state whether their national texts and documents are also available in English. In countries where only the texts in national language are deemed to have legal force, a disclaimer may need to be added to national websites – if such disclaimers have not already been made - in order to avoid any unintended legal liability arising from the translation. CEBS has drafted a disclaimer for its own use which is posted on its website.
  - iii. The need for disclosure does not override the confidentiality principle dealing with the exchange of information and professional secrecy. Consequently, no supervisory actions or decisions directed at specific institutions are to be disclosed. In particular, disclosures relating to the supervisory process under Article 144(1)(c) should exclude any supervisory measures directed at specific institutions, whether taken with respect to a single institution or to a group of institutions. Likewise, the aggregate statistical data referred to under Article 144(1)(d) shall be disclosed only insofar as institution-specific data cannot be derived from



the aggregate data. However, any data that an institution would itself be required to disclose, e.g. under Pillar 3, can be considered by the competent authorities not to raise a confidentiality issue. Competent authorities retain sole responsibility for determining when information may not be disclosed because of a potential breach of confidentiality. This principle is flagged in the framework by a specific waiver.

- iv. The supervisory disclosure should be resource-efficient and should avoid excessive burden on supervisors. Accordingly, the framework is based on currently available information and no additional reporting should be required on the part of supervisors or institutions. The overall structure and the format of the framework are designed to be simple and flexible enough to be updated and adapted within a reasonable time schedule.
  - v. The disclosure framework is regularly monitored by CEBS, through its Secretariat. An annual report is provided to the European Commission with a view to helping the Commission assess whether the objective of 'meaningful comparison' as stated in Article 144 is achieved.
  - vi. When information is not disclosed, CEBS Members are committed to providing an explanation for such non-disclosures.
25. Flexibility is needed in order to make these principles workable in practice. Flexibility in a technical sense is provided by using IT systems and the Internet, which will enable the framework to be easily accessible and quickly updated. Flexibility is also needed with respect to the detail and scope of disclosures. For example, the framework still needs to provide clear scope for competent authorities in small jurisdictions to benefit from the proportionality principle. Finally, flexibility is needed when dealing with confidentiality issues, such as those raised by differences in size between European banking systems.

#### **IV. Main features**

##### ***A. Internet architecture and format of publication***

- 26. The framework should provide easy access to relevant information and enable a meaningful comparison of approaches across EU countries. The use of the Internet is seen as the most technically suitable and user-friendly means to achieve these goals.
- 27. A two-tiered architecture is proposed, in which:



- i. The CEBS website serves as a centralised electronic repository. It allows for quick and easy comparison of relevant information, and provides links to the websites of the national supervisory authorities.
  - ii. The websites of national competent authorities provide the exhaustive and detailed information required by the CRD.
28. This two-tiered architecture is intended to strike an appropriate balance between the objectives of easy comparability (at CEBS level) and exhaustiveness (at national level). For instance, regarding the disclosures under Article 144(1)(b), CEBS posts on its website only the information provided by the national authorities which is needed to permit meaningful comparisons of the ways in which options and national discretions are exercised in the different Member States. This basic information then serves as a quick reference to the more detailed information available on national websites.
29. The two-tiered architecture should not undermine the ability of competent authorities to set or change their national transparency policies, since they are not be prevented from disclosing additional material, and remain solely responsible for the information made available on their websites.
30. On the technical side, competent authorities retain control over the design (the use of a logo, of certain colours, etc.) and technical organisation of their national websites, as long as the templates for information tables provided by CEBS are inserted into the supervisory disclosure section of their websites.
31. The two-tiered architecture appears to be technically feasible, with the interaction between the two levels consisting of hyperlinks between web pages. To avoid unnecessary duplication of work and to ease the burden of updating of information at both national and CEBS levels, CEBS recommends that links to the actual texts of documents from the CEBS website be used only on an exception basis.
32. To ensure the comparability of information provided by different countries represented in CEBS, a certain degree of standardisation is considered necessary. CEBS therefore recommends that it and national competent authorities incorporate similarly-structured web pages devoted to supervisory disclosure into their own websites, and that they use a common format for their information tables.



33. Thanks to electronic links between websites, webpages and tables, the end-user should find it easy to navigate on both CEBS website and national websites, from one table to another, from one webpage to another, from the CEBS website to the national websites and vice versa.
34. The use of similar web pages and common templates for information tables is viewed as an appropriate means of ensuring consistency, at CEBS and national levels, across the four areas of disclosure. It should facilitate the meaningful comparison of supervisory policies and practices while allowing for easy access to information.
35. The use of common templates is not meant to require any modifications to the existing disclosure systems of national authorities. The disclosure framework provides technical flexibility to use disclosures made at the national level in their current form. This can be accomplished either by setting up hyperlinks from the CEBS-formatted templates to the relevant national documents displayed on national websites, or by displaying the information, if short enough, directly in the templates. National authorities will be free to choose between these two methods. Finally, use of the CEBS' templates will not preclude national authorities from disclosing additional information.

## ***B. Content of disclosure***

36. The framework consists of a set of information tables to be filled in with the information and documents required under Article 144(1). They are divided into four sections, corresponding to the four sub-paragraphs of Article 144(1):
  - 'Rules and guidance' covers national laws and regulations in the field of prudential supervision and regulation (<http://www.cebs.org/Supervisory-Disclosure/Rules-and-guidance.aspx>),
  - 'Options and national discretions' refers to the information about how options and national discretions are exercised (<http://www.cebs.org/Supervisory-Disclosure/Options-and-national-discretions.aspx>),
  - 'Supervisory review' deals with the general criteria and methodologies used by competent authorities in their supervisory review and evaluation process referred to in Article 124 (<http://www.cebs.org/Supervisory-Disclosure/Supervisory-review.aspx>),



- 'Statistical data' refers to statistical data on key aspects of the implementation of the prudential framework (<http://www.c-eps.org/Supervisory-Disclosure/Statistical-Data.aspx>).
37. The templates are kept up to date to reflect the current version of the CRD and the outcome of the CEBS's work. The proposed templates are accessible by clicking here: [www.c-eps.org/Supervisory-Disclosure.aspx](http://www.c-eps.org/Supervisory-Disclosure.aspx).
  38. Aggregate data is stored by CEBS creating a database that can be used for statistical analysis. Therefore, users are able to analyse historical data from 2007 onwards.
  39. It is not considered necessary to specify a common structure or format for explanatory text or other relevant information that competent authorities may wish to release (e.g. FAQs). (<http://www.c-eps.org/Supervisory-Disclosure/national-web-pages.aspx>).
  40. The framework also includes a page for disclosing contact information. At the minimum, this should include contact information for the country's CEBS members, the CEBS Secretariat members and the communication officers of the competent authorities. The information should include at least the name of each person and his or her exact title and/or area of expertise. Additional information for the contact person (such as personal e-mail address, direct telephone and fax numbers) or general contact information (e.g., the organization's or function's e-mail address and switchboard number) should also be displayed on this page if deemed necessary (<http://www.c-eps.org/Supervisory-Disclosure/national-web-pages.aspx>).



## 1. Rules and guidance

41. Article 144(1)(a) of the CRD requires competent authorities to disclose the texts of laws, regulations, administrative rules and general guidance adopted in their Member State in the field of prudential regulation.

42. General guidance covers other relevant explanatory information to which competent authorities may wish to draw the attention of end-users in order to provide a basic understanding of the new capital adequacy framework. This information might, for example, take the form of frequently asked questions (FAQs) at the national level, relating to the national texts of laws, regulations or administrative rules.

43. The information required by Article 144(1)(a), as well as by the other additional disclosure requirements laid down in the CRD, is elaborated in this section (for an overview see Annex I). It is structured as follows:

<b>Rules and guidance</b>	
<b>Transposition of Directive 2006/48/EC</b>	
<b>Transposition of Directive 2006/49/EC</b>	
<b>ECAI recognition process</b>	
<b>Guidance for model validation</b>	
<b>Guidance for model approval</b>	
<b>Slotting Criteria</b>	
<b>Other CRD disclosure requirements</b>	<ul style="list-style-type: none"> <li>• Specific treatment of securitisations</li> <li>• Disclosure on waivers for solo supervision</li> <li>• List of regional governments and local authorities risk weighted like central governments</li> <li>• Mergers and acquisitions</li> <li>• Credit risk mitigation</li> </ul>
<b>Supervisory disclosure on reporting</b>	[This section is designed and updated by EGFI]



### 1.1. *Transposition Templates*

44. This section of the supervisory disclosure framework covers the texts of the laws, regulations, and administrative rules used by each Member State to transpose the Basel II-related provisions of the CRD (including Directive [2006/49/EC](#)). Depending on the national implementation approach, these may take the form either of new legislative and regulatory texts adapting the Directives into national law, or existing legislative texts or regulations amended accordingly.
45. For the purpose of supervisory disclosure, the term ‘administrative rules’ is understood to refer to documents that instruct supervised institutions on how to fulfil legislative and regulatory requirements. The character and legal enforceability of administrative rules is likely to vary from one Member State to the next. Nevertheless, for the sake of clarity and simplicity, they are considered here as ‘third-level’ documents – as compared to texts of laws (‘first level’) and regulations (‘second level’). This definition does not restrict the disclosure policies of competent authorities; they retain sole responsibility for deciding what types of documents (e.g. instructions, methodological notes, administrative notices) are appropriate to disclose under the generic heading of ‘administrative rules.’ The same holds true for ‘general guidance’. In general, however, competent authorities should strive for the widest possible disclosure, regardless of what legal instruments they use.

### 1.2. *ECAI recognition process*

46. Articles 81(4) and 97(4) of the CRD require competent authorities to publish an explanation of the recognition process for External Credit Assessment Institutions (ECAIs) and a list of eligible ECAIs.
47. To meet this requirement, competent authorities should disclose the methodologies or key questions they use to assess the eligibility of ECAIs. CEBS recommends that competent authorities disclose the application process, indicating whether eligibility is based on the decision of another EU Member State’s competent authorities, or on direct recognition. In the latter case, the disclosure should indicate whether this is done by accepting applications, either from credit institutions or from the ECAIs themselves; or using both methods. Competent authorities will indicate the main market segments for which the ECAIs have been recognised: ‘public finance’, ‘commercial entities’ (including corporate and financial companies) and/or ‘structured finance’ (including securitisation positions).



48. The CRD does not require competent authorities to disclose the mapping process they use to assign an ECAI's credit assessments to the steps in a credit-quality assessment scale. However, since this mapping is a key element in understanding how supervisors use ECAIs, CEBS recommends that the results of the mapping should be disclosed for each eligible ECAI.

*1.3. Guidance on the validation and approval of IRB and AMA approaches*

49. The disclosures should include validation guidelines published by national authorities, whatever their form (e.g. detailed technical guidance, working documents, supervisory rules, informal documents, interpretations, circulars, responses to industry questions). General information on the supervisory approval process itself should also be disclosed as this may provide end-users with useful practical information.

50. The CEBS Guidelines on Model Validation are also part of the disclosure framework.

*1.4. Slotting criteria for specialised lending exposures under the IRB*

51. Article 87(5) requires competent authorities to publish guidance on how institutions should assign risk weights to specialised lending exposures under the Internal Ratings Based approaches. To comply with this requirement, competent authorities should publish the slotting criteria that supervised institutions are required to use for specialised lending exposures when they cannot satisfy the minimum requirements for estimating the probability of default.

*1.5. Other CRD disclosure requirements*

*1.5.1. Specific treatment of securitisations and disclosure on waivers for solo supervision*

52. Article 100 CRD requires the publication of any specific treatment of securitisations subject to early amortisation provision of retail exposures referred to in Article 100(3) and (4) when it becomes part of the general approach of competent authorities.

*1.5.2. List of regional governments and local authorities*

53. According to Annex VI, Part 1, Number 9 of the CRD competent authorities are required to publish a list of regional governments and local authorities risk weighted like central governments.





### 1.5.3. *Mergers and Acquisitions*

54. The purpose of supervisory disclosures on mergers and acquisitions is to provide a general overview of the procedural rules and evaluation criteria for the prudential assessment of acquisitions and increases in holdings in the financial sector, as specified in Article 19-A of the CRD of 14 June 2006, as amended by Directive 2007/44/EC of 5 September 2007. The 3L3 "Guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by Directive 2007/44/EC" introduce identical assessment criteria for all three financial sectors and try to establish a common understanding of the five assessment criteria laid down by the Directive as a prerequisite for convergent supervisory practices.
55. The ultimate aim of these disclosures is to identify the level of implementation by each Member State of these Guidelines within its national legislation and, ultimately, to try to facilitate harmonization and promote convergence within the new common legal framework for the prudential assessment of acquisitions.
56. Following the 3L3 Guidelines the disclosure includes a list of information for the assessment of an acquisition (Appendix II) including general information (on the acquirer, on the acquisition, on the financing of the acquisition) and information requirements linked to the level of the shareholding to be acquired (change in control/qualifying shareholding). The disclosure also consists of a hyperlink to the national website where this list is available.
57. Further, the disclosure provides information on the level of implementation of the evaluation criteria for the prudential assessment of acquisitions and increases in holdings according to the 3L3 Guidelines.
58. Disclosure within the national website will be completed by using the structure set out in **Annex III** :
  - following the guidelines, each of the five assessment criteria is divided in more specific topics;
  - for each topic there is a list of more detailed conditions that provide a more granular insight into the level of implementation; and
  - every condition is given a letter/number in order to facilitate the completion of the template by Member States. (Where the 3L3 Guidelines have been fully implemented, all of the letters/numbers



should appear in the respective cells for every topic. The presentation in this way of the information disclosed facilitates a quick and meaningful cross-country comparison of information.

#### *1.5.4. Credit Risk Mitigation*

59. The supervisory disclosures on Credit Risk Mitigation (CRM) are introduced to provide information on the transposition of several details regarding CRM in the Member States as they are specified in the Annexes VI, Part 1 and VIII, Part 1 and 3 of the CRD. It mainly contains definitions and specifications of the Member States' national regulations concerning the following items:
- main indices;
  - recognised exchanges;
  - proven settlement systems;
  - standard market documentation;
  - core market participants; and
  - criteria for the assessment of the mortgage lending value in statutory or regulatory provisions.
60. The national authorities are required to disclose their definitions and interpretations of these items in the specified cells of the template. Thus, market participants can easily review the respective requirements of the individual Member States. The disclosure of this information goes beyond the disclosure on options, national discretions and mutual recognition clauses in national legislation.

## 2. Options and national discretions

61. Article 144(1)(b) of the CRD requires competent authorities to disclose the manner in which they exercise the options and national discretions available in Community legislation.

62. Since many of the policy decisions regarding options and national discretions are implemented via regulation, sub-paragraphs (a) and (b) of Article 144(1) do overlap to a certain degree. This duplication is considered acceptable and even desirable, since it highlights the different focus of the two subparagraphs. Subparagraph (a) is intended to present a given Member State's national texts as a cohesive whole. Subparagraph (b) focuses on the differences between the national banking legislations of different Member States. Such differences should be presented together in order to facilitate comparative analysis. Moreover, specific issues related to investment firms might require some minor adjustments in the future, so as to take into account their particularities, in accordance with Article 37 of the Directive 2006/49/EC.

63. For the sake of clarity, a consistent terminology has been adopted. 'Option' refers to a situation in which competent authorities or Member States are given a choice on how to comply with a given provision, selecting from a range of alternatives set forth in Community legislation.<sup>13</sup> 'Discretion' or 'national discretion' refers to a situation in which competent authorities or Member States are given a choice as to whether to implement, or not to implement, a given provision.<sup>14</sup>

64. Special attention has been paid to discretions for which mutual recognition is specifically allowed by the CRD. They are disclosed under a separate template ([http://www.c-eps.org/spreadsheets/mutual\\_recognition\\_single.xls](http://www.c-eps.org/spreadsheets/mutual_recognition_single.xls)).

65. As noted in section III of these guidelines, the supervisory disclosure framework specifically excludes supervisory actions or decisions directed at specific institutions. Consequently, options and discretions which are exercised with respect to individual institutions or to a given set of institutions, and which are not

---

<sup>13</sup> For example, national authorities have the *option*, in determining the risk weights for exposures to institutions, of using either the central government risk-weight based method or the credit assessment based method.

<sup>14</sup> For example, Member States may, at *national discretion*, impose sub-consolidation in cases where it is not required and, if they do so, they may set the conditions.

generally applicable, are not disclosed under Article 144(1)(b). In particular, when the Directives refer to the need for an institution to obtain a competent authority's approval or authorisation for various purposes, such authorisation or approval might be discretionary, but it does not constitute a national discretion in the sense described above.

66. Finally, not all options or national discretions that might fall within the scope of the framework and meet the above definition are necessarily of interest for supervisory disclosure purposes. In particular, some options or discretions are exercised not by competent authorities or Member States, but by the institutions themselves. Competent authorities are not required to make disclosures concerning options which they do not have the power to exercise.
67. As a result, starting from 2007, 101 options and national discretions out of the ones included in the CRD were disclosed together with 18 discretions which comprise a mutual recognition clause. To reflect the development of the CRD and the outcome of CEBS's work on convergence, the template will (as soon as practicable) be updated on a regular basis.
68. The first update will take place in March 2010 to further customise and complete the template (see Annex IV). The main changes include:
  - customising the template by drop-down menu and given exercise options ("A" for "applied", "NA" for "not applied" and "PA" for "partially applied"); furthermore, in some cases specific information on national implementation was seen as necessary to increase comparability (amount of alpha, number of days past due, etc);
  - deleting expired transitional discretions;
  - showing previously grouped discretions separately; and
  - completing the list, i.e. adding those discretions that were seen as out of scope in the first compilation of the list (mainly referring to large exposures and trading books). However, only those discretions that are considered to be stable (i.e. will not be changed by the pending CRD revision) are included in the revised list.
69. The two-level approach is unchanged. On the CEBS level only general information on the exercise of national discretions is displayed. Legal references and a description of national specificities (e.g. prior written approval required, applied only at the

consolidated level, etc.) are to be found on the national websites. There, further information is expected especially in those cases, where discretions have only partially been exercised (i.e. a "PA" is given in the respective cell of the CEBS template).

### 3. *Supervisory review*

70. Article 144(1)(c) of the CRD requires competent authorities to disclose the general criteria and methodologies they use in the review and evaluation referred to in Article 124 (the Supervisory Review and Evaluation Process).

71. The Supervisory Review and Evaluation Process (SREP) is one element of the larger Supervisory Review Process, the other element being the Internal Capital Adequacy Assessment Process (ICAAP).

- The ICAAP is conducted by the *institution*. It is a comprehensive process including the management body and senior management oversight, monitoring, reporting and internal control reviews that institutions must have to identify and measure their risks, allowing them to ensure that adequate provision is made for holding internal capital in relation to their risk profile.<sup>15</sup>
  
- The SREP is conducted by the *competent authority*. It is also a comprehensive process which supervisors use to review and evaluate the institution's exposure to risks, the adequacy and reliability of the institution's ICAAP, the adequacy of the institution's own funds and internal capital in relation to the assessment of its overall risk profile, to monitor ongoing compliance with standards laid down in the CRD and to identify any weakness or inadequacies and necessary prudential measures<sup>16</sup>.

72. The supervisory disclosure framework provides information both on minimum standards and requirements for ICAAP and on how

---

<sup>15</sup> See description of ICAAP in Chapter 1 of 'Application of the Supervisory Review Process under Pillar 2' (CEBS CP03 revised, 25 January 2006).

<sup>16</sup> See description of SREP in Chapter 1 CEBS CP03 revised posted on the CEBS website.

competent authorities conduct their own SREPs starting with the ICAAP/SREP dialogue. In practice, minimum standards for ICAAPs are disclosed under Article 144(1)(a). However, the disclosure of the same requirements under Article 144(1)(c) is considered useful, as it provides end-users with a different perspective. The rationale for this overlap is the fact that the competent authority's review and evaluation of the ICAAP is an integral part of the SREP.

73. The guidelines developed by CEBS in this area are organised into an overall structure that groups SREP topics under broad categories or stages. The objective is to identify the conceptual building blocks of supervisory activity that constitute the core of the SREP.
74. Four categories have emerged as common to all competent authorities. While specific definitions or details may vary over time or from one national authority to the next, the basic themes remain similar.
75. The organisation of these categories, as presented below, is derived mainly from the CEBS Guidelines on the Application of the Supervisory Review Process under Pillar 2. It also reflects the work done on internal governance. Further it takes into account the principles set out in the CEBS Guidelines on Supervisory Cooperation for Cross-Border Banking and Investments Firms Groups (also known as the Home Host Guidelines).
76. This structure should be easy to revise in order to reflect any changes in guidelines that may be forthcoming from CEBS.
77. The four categories are the following:
  - (i) Scope and classification (including proportionality);
  - (ii) Individual Risk Assessment;
  - (iii) Review and Evaluation of ICAAP; and
  - (iv) Overall assessment and supervisory measures.
78. Competent authorities are required to disclose the criteria and methodologies used in the first three categories and for the overall assessments in the fourth category. The authorities may, on a voluntary basis, also disclose the policies that guide their decisions for taking supervisory measures (within the meaning of Article 136(1)) whenever their assessment of an institution identifies weaknesses or inadequacies that call for supervisory intervention. Such disclosures might include the publication of internal guidelines

or other documents describing general supervisory practices. However, no disclosure is required regarding decisions on individual institutions, to respect the confidentiality principle.

79. Standing above the four categories, an overarching column, 'Dialogue/Interaction', is used to describe the close relationship between competent authority and institution during all four stages of the SREP, from scope and classification to overall assessment and supervisory measures. While they are presented as separate stages in the supervisory process, all four categories involve interaction between institutions and competent authorities, particularly for larger, more complex and systemically important institutions. Moreover, in practice, all four stages of the SREP are closely intertwined.
80. Another overarching dimension is proportionality. Both the requirements for the ICAAP<sup>17</sup> and the frequency and intensity of supervisory review and evaluation of those requirements<sup>18</sup> should be proportional to the nature, scale, and complexity of the activities of the institution concerned. This proportionality aspect has been integrated into the first category for easy reference, but it is relevant to the other categories as well.
81. Disclosures relating to the SREP employ the same two-tiered architecture described in these guidelines:
  - Guidelines and explanatory notes posted on the CEBS website provide an overall understanding of the general features to be implemented by national authorities under each category.
  - An executive summary written by each national authority, and posted on both its website and the CEBS website, gives an overview of how it implements its SREP. This summary may consist either of separate summaries for each of the categories or a single summary covering all four categories. The executive summary should also include supplementary information on any aspect of the general criteria and methodologies used in conducting the SREP that goes beyond the harmonised rules and regulations or converged supervisory practices in this area.

---

<sup>17</sup> See Article 123 of the CRD ([http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l\\_177/l\\_17720060630en00010200.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_177/l_17720060630en00010200.pdf))

<sup>18</sup> See Article 124 of the CRD.

82. The organisation of topics in the various explanatory notes has been updated to reflect the CEBS Guidelines on the Supervisory Review Process and the CEBS Home Host Guidelines.
83. When completing the revised supervisory disclosure template, competent authorities should continue to follow the guidelines set out in Section 3 of these guidelines and should disclose the criteria and methodologies noted in paragraph 78. In addition, the following points should be taken into account for each of the conceptual 'building blocks' which will provide greater clarity.
- (i) *Information to be disclosed under the category 'Scope and classification' (including proportionality)*
84. The explanatory note covers Articles 22, 68-73, 123 and 124 of the CRD and paragraphs 14 and 19 of CEBS Guidelines on the Supervisory Review Process (for scope of application). It also covers CEBS guidelines on home-host issues, which deal with cross-border co-operation and information exchange in more detail. Finally, it covers the general principle of proportionality contained in the CEBS Guidelines on the Supervisory Review Process.
85. Disclosure under this heading should also include the general principles and methodologies used by competent authorities to classify institutions. The disclosure should cover both quantitative analysis and qualitative criteria. In addition, any criteria and methodology used to categorise an institution's overall impact on financial stability or other overall supervisory objectives should be disclosed.
86. Competent authorities should explicitly state which entities are covered/excluded from the SREP.
87. Each competent authority should provide a high-level overview of how it addresses proportionality when considering the scope of its SREP both at the institutional level and in respect of its own resources.
- (ii) *Information to be disclosed under the category 'Individual Risk Assessment'*
88. The explanatory note covers amongst others the SREP Guidelines and the RAS Guidelines contained in the CEBS Guidelines on the Supervisory Review Process. Subject to proportionality, each supervisor should outline the criteria and methodologies used in individualised off-site supervision (as compared with the more automated, largely IT-based rating of banks under the category of 'classification'). The intensity and degree of scrutiny applied by a supervisor may vary widely, ranging from no individual assessment



beyond the classification rating, to a highly complex and detailed process of risk profiling.

89. The explanatory note should also provide an overview of the risk assessment process and in addition to outlining the criteria, it should also provide an overview of the scoring methodology for applying the risk assessment to institutions, taking proportionality into account. It should also explain the basis for risk assessment, e.g. on-site inspections and off-site examinations, qualitative and quantitative criteria, statistical data etc. Hyperlinks to any guidance on the website of the competent authorities are also recommended.

*(iii) Information to be disclosed under the category 'Review and Evaluation of ICAAP'*

90. The explanatory note should cover the ICAAP and the Internal Governance Guidelines contained in CEBS Guidelines on the Supervisory Review Process. It should provide an overview of the ICAAP submission process for example whether a suggested format is utilised (e.g. an ICAAP portal) and a hyperlink to any guidance issued. Competent authorities should also clarify whether an independent review of the ICAAP is required. Competent authorities may disclose their policies on the frequency and intensity of supervision<sup>19</sup> for the purpose of reviewing and evaluating a bank's internal ICAAP. The intensity of the interaction between the competent authority and the institution is subject to proportionality, as are any guidelines or minimum requirements for the ICAAP that the competent authority may issue. In addition, competent authorities may consider disclosing internal guidance relating to their on-site review and evaluation of ICAAP, such as examination manuals and other relevant material.

*(iv) Information to be disclosed under the category 'Overall Assessment and supervisory measures'*

91. The explanatory note should cover the Supervisory Measures Guidelines contained in the CEBS Guidelines on the 'Application of the Supervisory Review Process under Pillar 2' and should provide information regarding the implications if a credit institution violates

---

<sup>19</sup> In this context, supervision is understood as a broad approach including on-site inspections/on-site examinations by examiners (narrow approach) and any other supervisory contact on-site such as visits with risk management, management accounting, internal audit or any other unit of an institution

a relevant legal provision, e.g. it should advise what enforcement procedures are in place (where applicable). The overall assessment by the competent authority is based on a review of all the activities referred to under categories 1 through 3, along with any other relevant information about the institution that the competent authority may obtain. The form and level of detail of the assessment is, once again, subject to proportionality, particularly with respect to the individual risk profile as described in category 2.

92. Based on this overall assessment, each competent authority decides if supervisory measures are necessary and, if so, what measures are appropriate. As stated in paragraph 78 of these guidelines, policies that guide decisions on taking supervisory measures may also be published by competent authorities on a voluntary basis.

#### **4. Statistical data**

93. Article 144(1)(d) of the <a href="#">CRD</a> requires competent authorities to disclose aggregate statistical data on key aspects of the implementation of the prudential framework.
--

94. The 'key aspects' should include information about banks and investment firms on both the supervisory process (e.g. the number of institutions supervised) and supervisory outcomes (e.g. tier-1 ratios or Pillar-1 credit-risk capital requirements). This information should cover both banks and investment firms.

95. For the methodology used to define and calculate the aggregate statistical data, reference is made to Annex II which provides a list of definitions.

96. In principle, the aggregate statistical data will be based on information that is already available to the competent authority. The disclosures should therefore not involve any additional burden for the supervised institutions.

97. Possible sources of information include the CEBS Common Reporting framework for Pillar 1 data, internal data from competent authorities for Pillar 2 data, and Central Bank data (e.g. structural reports of the European Central Bank) for national data.

98. The table on national data presents key statistics for banks and investment firms on a domestic basis, together with key solvency

data on a national consolidated basis. The other tables present more detailed risk data for each country, also on a national consolidated basis rather than a solo basis.

99. To facilitate comparison of the data in the tables, the key statistics are displayed in relative terms, using percentages, instead of using absolute values.
100. In principle, the aggregate data should cover 100 percent of the supervised institutions. Less than 100 percent coverage will be permitted only if the omitted data are not considered to be material. Data will be considered material if their omission or misstatement might influence the assessment of the user.
101. To address the issue of confidentiality, the following disclaimer is posted on each of the tables:

“No confidential information which competent authorities may receive in the course of their duties may be divulged to any person or authority whatsoever, except in summary or collective form, such that individual credit institutions cannot be identified, without prejudice to cases covered by criminal law.<sup>20</sup> Accordingly, whenever the disclosure of aggregate statistical data would result in a breach of confidentiality as determined by the national competent authority, those data should not be disclosed.”

102. If data are not being disclosed, the reason for non-disclosure is given for that ‘blank’ cell. More specifically, an index is used that specifies whether the data for that cell are not available (N/A), confidential (C) or not material (N/M).
103. With respect to the Pillar 2 data which are provided on a country-by-country basis, it should be stressed that, due to differences in national regulations as well as in supervisory practices and approaches across Member States, the figures provided might not be fully comparable, and before drawing any conclusions, these differences should be carefully considered.

### ***C. Updating***

104. In order to keep the disclosure framework up to date, competent authorities will update their disclosures at least once a year. Disclosures under Article 144(1)(a) through (1)(c) should be

---

<sup>20</sup> The first sentence of the disclaimer is taken directly from Article 44(1) of the CRD.

updated no later than the end of January of each year, while disclosures under Article 144(1)(d) should be updated by July to allow time for data processing and aggregation of the previous year's data.

105. The process used for updating the disclosure framework should respect the current disclosure practices of national competent authorities, since they remain responsible for the information they disclose. This would automatically be the case if full use is made of the two-tiered structure described in section IV of these guidelines. If the structure relies on hyperlinks between webpages, any updates made to a national website should automatically result in updating the CEBS website. Should there be no automatic update, national authorities will be responsible for notifying CEBS when an update of information contained in the national part of the supervisory disclosure framework is made. Accordingly, the general principle should be that any national update triggers an update of the CEBS website.

## **V. The review of the framework**

106. In accordance with its Charter<sup>21</sup>, CEBS, through its Secretariat, will conduct an annual review of the implementation of the disclosure framework.
107. The CEBS Secretariat will carry out a fact-finding and stock taking exercise to monitor whether the required information is provided and disclosed.
108. The CEBS Secretariat is not responsible for the quality of the information provided by competent national authorities. The CEBS Secretariat's annual review will examine *only*:
- i. whether the tables have actually been filled in,
  - ii. whether the information has been updated,
  - iii. whether the information is disclosed in English and
  - iv. whether any technical problems arising from the use of hyperlinks on the CEBS website have been resolved on a best-efforts basis.

---

<sup>21</sup> Article 4.3 of its Charter, which states that "The Committee will foster and review common and uniform day to day implementation and consistent application of Community legislation." [...] It may also conduct surveys of regulatory/supervisory practices within the single market.

109. The results of this review will be summarised in the annual report of CEBS and will be provided to the Commission for information. This should assist the European Commission to assess whether the framework effectively contributes to the objective of an on-going 'meaningful comparison of approaches' as stated in Article 144 of the [CRD](#).

## **Annex I – List of CRD provisions**

### **List of the provisions of the CRD related to supervisory disclosure**

#### Article 81(4)

“Competent authorities shall make publicly available an explanation of the recognition process, and a list of eligible ECAIs.”

#### Article 87(5)

“Notwithstanding paragraph 3, the calculation of risk weighted exposure amounts for credit risk for special lending exposures may be calculated in accordance with Annex VII, Part 1, paragraph 5. Competent authorities shall publish guidance on how institutions should assign risk weights to specialised lending exposures under Annex VII, Part 1, Point 5 and shall approve institutions assignment methodologies.”

#### Article 97(4)

“The competent authorities shall make publicly available an explanation of the recognition process and a list of eligible ECAIs.”

#### Article 144

“1. Competent authorities shall disclose the following information:

- (a) the texts of laws, regulations, administrative rules and general guidance adopted in their Member State in the field of prudential regulation;
- (b) the manner of exercise of the options and discretions available in Community legislation;
- (c) the general criteria and methodologies they use in the review and evaluation referred to in Article 124;
- (d) without prejudice to the provisions laid down in Title V, Chapter 1, Section 2, aggregate statistical data on key aspects of the implementation of the prudential framework in each Member State.

The disclosures provided for in the first subparagraph shall be sufficient to enable a meaningful comparison of the approaches adopted by the competent authorities of the different Member States. The disclosures shall be published with a common format, and updated regularly. The disclosures shall be accessible at a single electronic location.”

Article 150(2)

"The Commission may adopt the following implementing measures in accordance with the procedure in Article 151:

- (d) specification of the key aspects on which aggregate statistical data are to be disclosed under Article 144 (1) (d)
- (e) specification of the format, structure, contents list and annual publication date of the disclosures provided for in Article 144.

Annex VIII, Part 1, Point 16:

"The competent authorities may waive the requirement for their credit institutions to comply with condition (b) in point 13 for exposures secured by residential real estate property situated within the territory of that Member State, if the competent authorities have evidence that the relevant market is well-developed and long established with loss-rates which are sufficiently low to justify such action. (...) Member States shall disclose publicly the use they make of this waiver."

ANNEX IX, Part 4, Point 31

"Where a competent authority intends to apply a treatment in accordance with point 30 in respect of a particular securitisation, it shall first of all inform the relevant competent authorities of all the other Member States. Before the application of such a treatment becomes part of the general policy approach of the competent authority to securitisations containing early amortisation clauses of the type in question, the competent authority shall consult the relevant competent authorities of all the other member States and take into consideration the views expressed. The views expressed in such consultation and the treatment adopted shall be publicly disclosed by the competent authority in question."

Article 122a (9) (a) of the CRD II

"Competent authorities shall disclose the following information:  
(a) by 31 December 2010, the general criteria and methodologies adopted to review the compliance with paragraphs 1 to 7;"

## **Annex II - Definitions for calculating the 'statistical data'**

### **Definitions for calculating the 'statistical data' part of the supervisory disclosure framework**

#### **Definitions of data on the national banking sectors in the EU**

1. *Number of credit institutions (CI):*

A credit institution is a company that meets the description, as laid down in Article 1 and 4 of [the CRD](#). The figure includes domestically incorporated institutions, branches of the EEA as well as non-EEA credit institutions. Any number of places of business set up in the respective country by a credit institution with headquarters in another country, is counted as one credit institution. The definition includes branches / subsidiaries of foreign banks but not foreign branches / subsidiaries of domestic banks (host country approach).

2. *Total assets of CI*

Total assets of credit institutions. Non-consolidated data required. Calculated on a residential basis (host country approach, with a population that corresponds to the principles, as laid down under 1).

3. *Gross Domestic Product*

At market price (suggested source Eurostat/ECB).

4. *Number of branches of CI from EEA countries*

A branch is a place of business which forms a legally dependent part of a credit institution and which carries out directly all or some of the transactions inherent in the business of credit institutions. Any number of places of business set up in the same country by a credit institution with headquarters in another country should be counted as a single branch.

5. *Total assets of branches of CI from EEA countries*

The sum of the total assets of branches as defined in number 4.

6. *Number of subsidiaries of CI from EEA countries*



A subsidiary is a separate incorporated credit institution in which another (EEA) credit institution has a majority or full participation. Any subsidiary of a subsidiary undertaking shall be regarded as a subsidiary of the parent undertaking which is at the head of those undertakings.

7. *Total assets of subsidiaries of CI from EEA countries*

The sum of the total unconsolidated assets of the subsidiaries as defined in number 6.

8. *Number of branches (see number 4) of CI from third countries*

9. *Total assets of branches (see number 5) of CI from third countries*

10. *Number of subsidiaries (see number 6) of CI from third countries*

11. *Total assets of subsidiaries (see number 7) of CI from third countries*

12. *Total tier I capital*

Original own funds as composed by items (a), (b) and (c) of Article 57 of the CRD deducted by items (i), (j), (k) and by 50% of items (l) to (r) of Article 57 of the CRD according to Article 66 paragraph 2 of this Directive.

13. *Total tier II capital*

Additional own funds as composed by items (d), (e), (f), (g) and (h) of Article 57 of the CRD and deducted by 50 % of items (l) to (r) of Article 57 after application of the limits of Article 66 paragraph 1 according to Article 66 paragraph 2 of this Directive.

14. *Total capital requirements*

The Tier I (see number 12) and Tier II (see number 13) capital plus ancillary own funds as defined in Articles 13-15 of the [Directive 2006/49/EC](#).

15. *Total capital adequacy ratio*

Total capital (see number 14) as a proportion of total risk weighted assets (see number 15) plus the calculated total of market risk positions (converted into risk weighted assets).

16. *Number of investment firms*

Firms that meet the investment firm definition of Article 4 of [Directive 2004/39/EC](#).

17. *Total assets of investment firms*

The total assets of investment firms. Non-consolidated data required. Calculated on a residential basis (host country approach, see number 1).

## **Definitions on Credit Risk data**

18. *Standardised Approach to credit risk*

Standardised Approach for calculating the risk weighted exposure amount, as provided in Title V, Chapter 2, Section 3, Subsection 1, Articles 78-83 as well as Annex VI of the [CRD](#).

19. *Foundation IRB approach to credit risk*

Internal Ratings Based Approach for calculating the risk weighted exposure amounts as provided in Section 3, Subsection 2, Articles 84-89 of the CRD based on values for LGDs and conversion factors, as provided in Section 3, Subsection 2, Article 87(8) of CRD.

20. *Advanced IRB*

Internal Ratings Based Approach for calculating the risk weighted exposure amounts as provided in Section 3, Subsection 2, Articles-84-89 of the CRD based own estimates for LGDs and/or conversion factors as provided in Section 3, Subsection 2, Articles 87(7) and 87(9) of the CRD.

21. *Own funds requirements for credit risk*

Total minimum level of own funds for credit risk as defined by Article 75 (a), Article 76, Annex VI and Annex VII of the CRD). The requirement calculation must also take into account a number of other elements in the directive.

22. *Total own funds requirements*

Total minimum level of own funds as defined by Article 75 (a)-(d) of the CRD.

23. *Own funds requirements*

For a particular approach, the minimum level of own funds for credit risk as defined by Title V, Chapter 2, Section 3, Articles 76-93, Annex VI and Annex VII of the CRD.

24. *Exposure*

An asset or off-balance sheet item as defined by Article 77 of the CRD.

25. *Asset class*

Asset classes are broadly defined to achieve the highest degree of commonality between the exposure classes as defined in Article 79(1) of the CRD for the Standardised Approach and Article 86(1) for the Internal Ratings Based approach.

The proposed definitions of asset classes below are indicative and subject to further review once the CEBS' work on the Common reporting framework is finalised.

All exposures are mapped onto 8 exposure classes. The 8 exposure classes are: Central Governments & Central banks, Institutions, Corporate, Retail, Equity, Securitisation positions, Other non-credit obligation assets, Other items.

26. *Central Governments & Central Banks*

Exposure class as defined by Article 86(1)(a) of the CRD for the Internal Ratings Based Approach. For the Standardised Approach, this exposure class includes the exposure classes defined in Article 79(1)(a)-(e).

27. *Institutions*

Exposure class as defined by Article 86(1)(b) of the CRD for the Internal Ratings Based Approach. For the Standardised Approach, this exposure class includes the exposure classes defined in Article 79(1)(f) and (1)(l).

28. *Corporate*

Exposure class as defined by Article 86(1)(c) of the CRD for the Internal Ratings Based Approach. For the Standardised Approach, this exposure class includes the exposure classes defined in Article 79(1)(g) and (1)(i), and Annex VI, Part I, section 9.2 Exposure secured by mortgages on commercial real estate.

29. *Retail*

Exposure class as defined by Article 86(1)(d) of the CRD for the Internal Ratings Based Approach. For the Standardised Approach, this exposure class includes the exposure classes defined in Article 79(1)(h) and (1)(i), and Annex VI, Part I, section 9.1 Exposure secured by mortgages on residential property.

30. *Equity*

Exposure class as defined by Article 86(1)(e) of the CRD for the Internal Ratings Based Approach. For the Standardised Approach, this exposure class includes the exposure classes defined in Article 79(1)(k) and (1)(o).

31. *Securitisation positions*

Exposure class as defined by Article 86(1)(f) of the CRD for the Internal Ratings Based Approach. For the Standardised Approach, this exposure class includes the exposure classes defined in Article 79(1)(m).

32. *Other non-credit obligation assets*

Exposure class as defined by Article 86(1)(g) of the CRD for the Internal Ratings Based Approach.

33. *Other items*

Exposure class as defined by Article 79(1) (j),(n) and (p) of the CRD for the Standardised Approach.

34. *Credit risk mitigation*

A technique used by a credit institution to reduce the credit risk associated with an exposure or exposures which the credit institution continues to hold, as defined in Article 4 (30) and Section 3, subsection 3, Articles 90-93 and Annex VIII of the CRD.

35. *Financial Collateral Simple Method*

Under this valuation method, recognised financial collateral as a credit risk mitigation technique is assigned a value equal to its market value. This method is only available where risk weighted exposure amounts are calculated under the Standardised Approach. See Annex VIII, Part 3, Points 25 and following of the CRD.

36. *Financial Collateral Comprehensive Method*

Under this valuation method, financial collateral as a credit risk mitigation technique is assigned a value after applying volatility adjustments, in order to take account of market price volatility. See Annex VIII of the CRD.

37. Additional information on securitisation

*Originator*

Originator as defined by Article 4 (41) of the CRD 'means either of the following:

(a) an entity which, either itself or through related entities, directly or indirectly, was involved in the original agreement which created the obligations or potential obligations of the debtor or potential debtor giving rise to the exposure being securitised; or

(b) an entity which purchases a third party's exposures onto its balance sheet and then securitises them.'

## **Definitions on Operational Risk data**

38. *Basic Indicator Approach*

Basic Indicator Approach for calculating the capital requirement for operational risk is a certain percentage of a relevant indicator, in accordance with the parameters set out in Annex X, Part 1 of the CRD, as provided in Section 4, Article 103.

39. *Standardised Approach*

Under the Standardised Approach for calculating the capital requirement for operational risk, the institutions shall divide their activities into a number of business lines and shall apply a certain percentage of a relevant indicator for each of these business lines, in accordance with Annex X, Part 2 of the CRD, as provided in Section 4, Article 104 of this Directive.

40. *Advanced Measurement Approaches*

Advanced Measurement Approaches for calculating the capital requirements for operational risk are based on the institutions' own internal risk measurement systems. Institutions must satisfy their competent authorities that they meet the qualifying criteria set out in Annex X, Part 3 of the CRD, as provided in Section 4, Article 105 of this Directive.

41. *Own funds requirements for operational risk*

The minimum level of own funds for operational risk as provided in Section 4, Article 102 of the CRD.

## **Definitions on Market Risk data**

42. *Own funds requirements market risk*

Total minimum level of own funds for market risk as defined by Article 75 (b) and Article 75 (c) of the [CRD](#).

43. *Own funds requirements standardised approach*

Total minimum level of own funds as defined by Annex I, III, IV & VI of Directive [2006/49/EC](#).

44. *Own funds requirements VAR*

Total minimum level of own funds as defined by Annex V of the Directive 2006/49/EC.

45. *Own funds requirements standardised approach traded debt instruments*

Total minimum level of own funds as defined by Annex I, Points 1-12, Points 13-32, Points 41-56 and Annex VI of the Directive 2006/49/EC.

46. *Own funds requirements standardised approach equities*

Total minimum level of own funds as defined by Annex I, Points 1-12, Points 33-40, Points 41-56 and Annex VI of the Directive 2006/49/EC.

47. *Own funds requirements standardised approach foreign exchange*

Total minimum level of own funds as defined by Annex III of the Directive 2006/49/EC.

48. *Own funds requirements standardised approach commodities*

Total minimum level of own funds as defined by Annex IV of the Directive 2006/49/EC.

49. *Own funds requirements VAR defined towards risk categories*

Total minimum level of own funds as defined by Annex V of the Directive 2006/49/EC the provisions of which under point 5 contain conditions for calculating specific risk associated with traded debt and equity positions by an internal model. If these conditions are not met by the institution, the standardized approach applies. Points 8 and 9 also relate to *specific risks*. Reference to general interest rate and equity risk, foreign exchange risk and commodity risk is made in point 12.

## **Definitions on Supervisory actions and measures**

50. *Number of on-site inspections*

This refers to predefined examinations, conducted within the institution either by the supervisors' own staff or external auditors with a view to:

- providing independent verification that adequate internal governance (including risk management and internal control systems) exists at individual banks;
- determining that information provided by banks is reliable;
- obtaining additional information needed to assess the condition of the bank.

It does not include any other supervisory contact on-site, such as visits. It does, however, include regular on-site inspections.

51. *Number of overall-assessments performed*

These assessments refer to the review and evaluation as described in Article 124 of the CRD.

52. *Number of institutions for which Art 136 (1) measures have been taken*

These measures refer to Article 136 (1) of the CRD.

### **Population of statistical tables**

53. General principles:

- a. In order to allow meaningful comparisons between the tables for all Member States and to provide a systematic appearance, it is important that the format of the tables (i.e. the number of rows and columns) which are to be sent to the CEBS Secretariat for uploading to the CEBS website are not changed. Members are only free to add more rows or columns to tables in their disclosure frameworks on their national websites if they deem that more information is required or appropriate.
- b. All the templates must follow the two-tiered architecture principle set out in the Guidelines - summary information at CEBS level to ensure easy comparability and more detailed information at national level. For instance, the disclosure tables on national discretions and supervisory review can include summary information on the CEBS website with a link to more detailed information on the national website.
- c. The reference date should be 31 December 20xx. In other words, the reporting date for the disclosures on the CEBS website should always be 31 December of the previous year, although again members are free to disclose more up to date information on their national websites.
- d. Numerical cells should include only numbers. There should be no references to national currencies, etc). The currency used is EUR and non Euro-zone countries should convert their national currencies into EUR using the ECB exchange rates (at the common reference date, i.e. the last day of the year under review), with one decimal point when disclosing amounts in millions.
- e. Unit of disclosure should be in 'million of euros'.
- f. The decimal separator should be a dot (e.g. 2.3%) and the 1,000 separator should be a comma (e.g. 1,000,000).
- g. If data are not being disclosed, the reason for non-disclosure should be provided for that 'blank' cell: members are asked to use the CEBS's nomenclature i.e. N/A (for not available), C (for confidential) or N/M (for not material).
- h. All tables should also be populated with links to national websites. If links change, the Secretariat should be informed without delay.

54. Detailed principles:

**a. Table on Pillar 1 credit risk data**

This template has been changed to include the 16 SA exposure classes. Member States that have chosen to request their institutions to report the information regarding the SA in accordance to the IRB exposure classes, should also be able to get the information for the SA exposure classes, but considering that the SD framework is not supposed to create an additional burden for institutions or supervisors, those members can choose to rely on the information they receive via the solvency reporting framework.

All data in this table will refer to the last day of each year.

**b. Table on national data**

In order to capture market risk, this template has recently been changed so that the rows 'total risk weighted assets' have become 'total capital requirements'.

For purposes of clarity, the table on national data presents key statistics for banks and investment firms on a domestic basis, together with key solvency data on a national consolidated basis. The other tables present more detailed risk data for each country, also on a national consolidated basis rather than a solo basis.

Additionally, the part on "total capital and risk weighted assets of credit institutions" refers only to those credit institutions that are subject to the own funds regulation and so is not comparable with the credit institutions mentioned in the part "number and size of credit institutions in EU countries". In the latter EEA branches are included which are not subject to the CRD.

All data in this table will refer to the last day of each year.



## Annex III - List of information requirements

### List of information requirements from the 3L3 Guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by Directive 2007/44/EC

#### – For disclosure on the national websites –

#### ART. 19-A (1) a) – INTEGRITY

To indicate, according to the national legislation, what situations are subject to integrity assessment:

- A** The absence of 'negative records';
- B** Conviction of a relevant criminal offence;
- C** Criminal offences currently being tried or having being tried in the past;
- D** Current or past investigations and/or enforcement actions or administrative sanctions related to the acquirer for non compliance with provisions governing banking, financial, securities or insurance activity or those concerning securities markets, securities or payment instruments, or any financial services legislation;
- E** Current or past investigations and/or enforcement actions or administrative sanctions by any other regulatory or professional bodies for non-compliance with any relevant provisions;
- F** Correctness in past business dealings:
  - F.a** With supervisory or regulatory authorities;
  - F.b** Refusal of a registration, authorization, membership, or license to carry out a trade, business, or profession; or revocation, withdrawal, or termination of such registration, authorization, membership, or license; or expulsion by a regulatory or government body;
  - F.c** Dismissal from employment or a position of trust, fiduciary relationship, or similar situation, or having been asked to resign from employment in such a position;
  - F.d** Disqualification from acting as a person who directs the business.

To indicate, according to the national legislation, the way the integrity assessment is performed:

- I.** On a case by case basis;
- II.** Consideration of the relevance of criminal records differently according to the type of conviction, the level of appeal, the type of punishment, the length of the sentence, the phase of the judicial process reached and the effect of rehabilitation;
- III.** The information requirements may vary according to the nature of the acquirer (natural vs. legal person, regulated or supervised entity vs. unregulated entity);

- IV.** The acquirer itself should attest in a statement that none of the situations described in points 24 to 26 of the Guidelines is occurring or has occurred in the past to the best of its knowledge. A delayed, incomplete, or undelivered declaration will call into question the approval of the acquisition;
  - V.** The supervisory authority should be able to verify the statement submitted by the proposed acquirer by asking it to provide documents evidencing that the statement is true and, if needed, by requesting confirmation from other authorities, domestic or foreign;
  - VI.** In the case of an increase in an existing qualifying holding, and to the extent that the integrity of the acquirer has previously been assessed by the supervisor, the relevant information should be updated as appropriate.
  - VII.** If the shareholder is a company or an institution, the integrity requirements must be satisfied by the legal person as well as by all of the persons who effectively direct the business;
  - VIII.** When assessing the integrity of the acquirer, the supervisory authority may take into consideration any person linked to the acquirer;
  - IX.** The integrity requirements should be applied regardless of the level of the qualifying shareholding that a proposed acquirer intends to acquire, and of its involvement in the management or the influence that it is planning to exercise on the target institution.
- 

#### Art. 19-A (1) a) - PROFESSIONAL COMPETENCE

To indicate if the analysis of the professional competence takes into account:

- A.** The management competence (competence in management);
- B.** The technical competence (in the area of the financial activities carried out by the target institution);
- C.** If the acquirer is a legal person, the assessment should cover both the company itself and the persons who effectively direct the business.

To indicate, according to the national legislation, the way the professional competence assessment is performed:

- I.** In the case of an increase in an existing qualifying holding, and to the extent that the professional competence of the acquirer has been assessed previously by the supervisor:
  - I.a.** the relevant information should be updated as appropriate;
  - I.b.** the updated assessment should take into account the increased influence and responsibility associated with the increased holding.
- II.** The assessment should take into account the influence that the acquirer will exercise over the target institution;

- III.** The professional competence requirements for natural or legal persons who acquire significant holdings in financial companies with the aim of diversifying their portfolio and/or obtaining dividends or capital gains (rather than with the aim of becoming involved in the management of the financial institution concerned) could be significantly reduced;
- IV.** When the acquisition of control or of a shareholding allows the acquirer to exercise a strong influence:
- IV.a.** the need for technical competence will be greater;
- IV.b.** the degree of technical competence needed will depend on the nature and complexity of the activities envisaged.
- 

#### ART. 19-A (1) a) - PRACTICALITIES OF THE COOPERATION PROCESS

To indicate, if applicable according to the national legislation:

Integrity requirements:

- A.** If the acquirer is supervised by the same competent supervisor, or by another competent supervisor in the same country or in another Member State, the integrity requirements should generally be presumed to have been met if:
- A.a** The acquirer is a natural or legal person already considered to be 'of good repute' in its capacity as a significant shareholder of another financial institution which is supervised by the same competent supervisor or by another competent supervisor in the same country or in another Member State;
- A.b** The acquirer is a natural person who already directs the business of the same or another financial institution which is supervised by the same competent supervisor or by another competent supervisor in the same country or in another Member State;
- A.c** The acquirer is a legal person regulated and supervised as a financial institution by the same competent supervisor or by another competent supervisor in the same country or in another Member State
- B.** If the acquirer is supervised by a competent supervisor in a third country, the assessment of integrity may be based on an assessment of the substantial equivalence of the regulation concerning integrity requirements in a third country and the assessment may be facilitated by cooperating with the competent supervisory authority in the third country, if:
- B.a** The acquirer is a natural or legal person already considered to be 'of good repute' in his capacity as a significant shareholder of another financial institution which is supervised by a competent supervisor in the third country;
- B.b** The acquirer is a natural person who already directs the business of the same or another financial institution which is supervised by a competent supervisor in the third country;
- B.c** The acquirer is a legal person regulated and supervised as a financial institution by a competent supervisor in the third country.

Professional competence requirements:

- I.** If the acquirer is supervised by the same competent supervisor, or by another competent supervisor in the same country or in another Member State, the professional competence requirement should generally be presumed to have been met:
    - I.a.** if the acquirer is a natural or a legal person already considered to be 'of good repute' in his capacity as a significant shareholder of another financial institution supervised by the same competent supervisor or supervised by another competent supervisor in the same country or in another Member State;
    - I.b.** if the acquirer is a natural person who already directs the business of the same or another financial institution supervised by the same competent supervisor or by another competent supervisor in the same country or in another Member State;
    - I.c.** If the acquirer is a legal person regulated and supervised as a financial institution by the same competent supervisor or by another competent supervisor in the same country or in another Member State.
  - II.** If the acquirer is supervised by a competent supervisor in a third country, the assessment of professional competence may be based on an assessment of the substantial equivalence of the regulation concerning professional competence requirements in the third country, and the assessment may be facilitated by cooperating with the competent supervisory authority in the third country, if:
    - II.a.** the acquirer is a natural or legal person already considered to be 'of good repute' in his capacity as significant shareholder of another financial institution supervised by a competent supervisor in a third country;
    - II.b.** the acquirer is a natural person who already directs the business of the same or another financial institution supervised by a competent supervisor in a third country;
    - II.c.** The acquirer is a legal person regulated and supervised as a financial institution by a competent supervisor in a third country.
- 

ART. 19-A (1) b) - POWER OF OPPOSITION

To indicate (as a Y/N response) if, in a situation where the acquirer intends to appoint a person who is not fit and proper, then the target supervisor should oppose the proposed acquisition.

---

ART. 19-A (1) c) - SCOPE OF ANALYSIS

To indicate, according to the national legislation, what considerations are subject to financial soundness assessment:

- A.** Whether the financial soundness of the proposed acquirer is strong enough to ensure the sound and prudent management of the target financial institution for the foreseeable future (usually three years) in accordance with the principle of proportionality (nature of the acquirer, nature of the acquisition);
- B.** Whether the acquirer is likely to face financial difficulties during the acquisition process or in the foreseeable future;
- C.** Whether the financial mechanisms put in place by the proposed acquirer to finance the acquisition, or existing financial relationships between the acquirer and the target financial institution, could give rise to conflicts of interest that could destabilize the financial structure of the target financial institution.

To indicate, according to the national legislation, the way the financial soundness assessment is performed:

- I.** The depth of the assessment of the financial soundness of the acquirer should be linked with and proportionate to the nature of the acquirer and the nature of the acquisition;
- II.** A distinction should be made between situations where the acquisition leads to a change in the control of the target financial institution from situations where it does not;
- III.** The assessment of the financial soundness of the acquirer should take into consideration the involvement of the proposed acquirer in the management of the target financial institution;
- IV.** The characteristics of the proposed acquirer may justify differences in the depth and methods of the analysis by the competent supervisor;
- V.** The information required for the assessment of the financial soundness of the proposed acquirer will depend on the legal status of the proposed acquirer, e.g., whether it is a financial institution subject to prudential supervision, a legal entity other than a financial institution or a natural person;
- VI.** If the proposed acquirer is a financial institution subject to prudential supervision by another (EEA or equivalent) competent supervisor, the target supervisor should take into account the assessment of the proposed acquirer's financial situation by the acquirer supervisor, together with the documents gathered and transmitted directly by the acquirer supervisor to the target supervisor;

---

#### ART. 19-A (1) c) - PRACTICALITIES OF THE COOPERATION PROCESS

To indicate, if applicable according to the national legislation:

- A.** If the acquirer is a supervised entity in another Member State, the assessment of its financial soundness will rely heavily on the assessment made by the acquirer supervisor, which has all the information on the profitability, liquidity, and solvency of the acquirer, as well as on the availability of the resources for the acquisition;

- B.** If the acquirer is a financial entity supervised by a competent supervisor in a third country considered 'equivalent', the assessment may be facilitated by cooperation with that competent supervisor.
- 

#### ART. 19-A (1) d) - SCOPE OF ANALYSIS

To indicate, according to the national legislation, what situations are subject to compliance with the prudential requirements assessment:

- A.** The objective facts, such as the intended share in the institution (proportionality principle), the reputation of the acquirer, its financial soundness, and its group structure;
- B.** The acquirer's declared intentions towards the target institution expressed in its strategy (business plan);
- C.** The ability of the target financial institution to comply at the time of the acquisition, and to continue to comply after the acquisition, with all prudential requirements, including capital requirements, liquidity requirements, large exposures limits, requirements related to governance arrangements, internal control, risk management, compliance, etc.;
- D.** If the target institution will be part of a group, the structure of the group should make it possible to exercise effective supervision, effectively exchange information with the competent authorities, and determine the allocation of responsibilities among the competent authorities;
- E.** The acquirer's capacity to support adequate organization of the target institution within its new group. Both the target financial institution and the group should have clear and transparent corporate governance arrangements and adequate organization, including an effective internal control system and independent control functions;
- F.** The group of which the target institution will become a part of should be adequately capitalised and its own funds should be distributed appropriately within the group according to the level of risk in each part;
- G.** Whether the acquirer will be able to provide the target institution with the financial support it may need for the type of business pursued by and/or envisaged for it; to provide any new capital that the target financial institution may require for future growth in its activities; or to implement any other appropriate solution to accommodate the target financial institution's needs for additional own funds.

To indicate, according to the national legislation, additional requirements for the compliance with the prudential requirements assessment:

- I.** The business plan provided by the acquirer to the target supervisor should cover at least 3 years;
- II.** In cases of qualifying holding of less than 20 %, information requirements are downscaled;

- III. The business plan should clarify the plans of the acquirer concerning the future activities and organization of the target institution. This should include a description of its proposed group structure;
  - IV. The plan should also evaluate the financial consequences of the proposed acquisition and include a medium-term forecast.
- 

#### Art. 19-A (1) e) - SCOPE OF ANALYSIS

To indicate, according to the national legislation, what situations are subject to money laundering or terrorist financing (ML/TF) assessment:

- A. If the proposed acquirer is suspected or known to be involved in money laundering operations or attempts and whether or not this is linked directly or indirectly to the proposed acquisition;
- B. If the proposed acquirer is 'listed' as being a terrorist, or if he is suspected or known to finance terrorism;
- C. If the context of the acquisition would increase the risk of ML/TF, even when there are no criminal records, or where there are no reasonable grounds to doubt the integrity of the proposed acquirer

To indicate, according to the national legislation, the way the compliance with the ML/TF assessment is performed:

- I. In addition to information about the acquirer gathered during the assessment process, competent authority should collect information from (for example) court decisions, public prosecutor's files, FATF-GAFI country assessments or typology reports, etc.;
  - II. The competent authority should also collect information regarding the origin of the funds that will be used to acquire the proposed holding;
  - III. The ML/TF assessment should be carried out regardless of the value and other characteristics of the proposed acquisition
- 

#### ART. 19-A (1) e) - PRACTICALITIES OF THE COOPERATION PROCESS

To indicate, if applicable according to the national legislation:

- A. Missing information or information regarded as incomplete, insufficient, or liable to give rise to suspicion should trigger increased supervisory diligence and requests for further information by the acquirer supervisor;
- B. The funds used for the acquisition are channelled through chains of financial institutions all of which are subject to supervision by competent authorities in the EEA or in third countries considered to be equivalent;
- C. Information on the history of the business activities of the acquirer and on the financing scheme should be consistent with the value of the deal;

- D.** The funds must have an uninterrupted paper trail back to their origins, or other information that allows the supervisory authorities to resolve all doubts as to their legal origin.
- 

#### ART. 19-A (4) – SCOPE

To indicate, according to the national legislation, if:

- A.** The information required shall be proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition;
- B.** The information required is distinguished between two cases: when the acquisition will result in a change in control over the financial institution, and when acquirer will not gain control over the target financial institution but will acquire a qualifying holding;
- C.** In case of a change in control, the proposed acquirer shall provide a business plan to the target supervisor;
- D.** When the acquirer will not gain control over the target financial institution but will acquire a qualifying holding, the information required is proportionate to the presumed degree of involvement of the acquirer in the management of the target financial institution;
- E.** In all cases, the proposed acquirer should attest to the target supervisor that all of the information communicated by him is accurate, and is not false, misleading, or deceptive;
  - E.1.** The target supervisor can verify the statement submitted by the proposed acquirer by asking it to provide documents evidencing that the statement is true and, if needed, by requesting confirmation from other authorities, domestic or otherwise.
- F.** The list with the information requirements must be provided by the persons (whether direct or indirect proposed acquirers) subject to notification requirements.



## **Annex IV – Changes to the Options and National discretions Template**

### **Changes to the Options and National Discretions Template in the first Review 2009:**

#### Customising the template:

- Annex III, Part 6 Point 7 CRD: amount of alpha (as “A” could be understood as “a higher alpha was implemented” or “the possibility to increase alpha was implemented”)
- Article 154 Para. 1 (first subpara.), 154 Para. 7 (first two sentences), Annex VII, Part 4 Point 48 CRD: number of days past due
- Annex III, Part 7c(ii) CRD (“separate calculation”, “aggregate calculation”, “choice of methods”)
- Article 80.3 and Annex VI, Part 1 Point 24 CRD (“central government method (a)”, “credit assessment method (b)”)

#### Deletion from list (mainly expired transitional discretions):

- Article 152(10)(b) CRD
- Article 154 Para. 2 CRD
- Article 154 Para. 3 CRD
- Annex VIII, Part 3 Point 12 CRD

#### Separate disclosure of so far grouped discretions:

- Article 61, 63 Para. 1, 64 Para. 3
- Article 22 Para. 2, 24 and 25 CRD
- Article 154 Para. 1 CRD (PSE, corporate and retail exposures)
- Annex VII, Part 4 Point 48 CRD (PSE and retail exposures)
- Article 113 (4)

Adding of discretions that were seen as out of scope in the first compilation of the list (mainly referring to large exposures and trading book); however, only those discretions were taken up in the revised list that are considered to be stable (i.e. will not be changed by the pending CRD revision):

- Article 19 Para. 1 CRD (0% weighting of certain debt securities)

- Article 29 CRD (Reporting requirements for branches of credit institutions in Host Member States)
- Article 63 Para. 2 CRD (Securities of indeterminate duration as own funds items)
- Article 63 Para. 3 CRD (Excess value adjustments and provisions as own funds items)
- Annex III, Part 2 Point 6 CRD (0% risk weight for other credit risk exposures determined by the competent authorities outstanding with a central counterparty)
- Annex VII, Part 2 Point 14 CRD (Alternatives for the calculation of maturity)
- Article 5 Para. 2 CAD (Holding of trading book positions in financial instruments of certain investment firms)
- Article 22 Para. 1 CAD (Consolidated waiver for investment firms)
- Article 27 Para. 2 CAD (Consolidated own funds of institutions)
- Annex I Point 2 CAD (Netting of convertible and offsetting positions in the underlying instrument)
- Article 30 Para. 4 CAD (0% or 20%-weighing of assets constituting claims/other exposures on recognised third-country investment firms and recognised clearing houses and exchanges for large exposures purposes)
- Article 32 Para. 2 CAD (Reporting and LE limits in case of alternative determination of own funds of institutions)
- Annex I Point 41 CAD (Special procedure for calculation of capital requirements for underwriting of debt and equity instruments)
- Annex III Point 3.2 (first subparagraph) CAD (Alternative calculation of capital requirements for positions in foreign currencies subject to a legally binding intergovernmental agreement)
- Annex III Point 3.2 (second subparagraph) CAD (Capital requirement for matched positions in EMU-currencies)
- Annex IV Point 21 CAD (Alternative minimum spreads for commodities risk capital requirements)