

EBA/CP/2021/24

23/06/2021

Consultation Paper

Draft Implementing Technical Standards

amending Commission Implementing Regulation (EU) 2021/451
with regard to COREP, asset encumbrance and G-SII reporting

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1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.22.

Comments are most helpful if they:

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

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 23 September 2021. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

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

Data protection

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

2. Executive Summary

Regulation (EU) No 575/2013 ('the CRR') mandates the EBA, in Article 430(7), to develop uniform reporting requirements. These reporting requirements are included in the draft Implementing Technical Standards (ITS) and become final following their adoption by the European Commission. These standards cover information on institutions' compliance with prudential requirements as put forward by the CRR and related technical standards as well as additional financial information required by supervisors to perform their supervisory tasks. As such, the ITS on supervisory reporting need to be updated whenever prudential or supervisory requirements change.

This consultation paper proposes amendments to the ITS on supervisory reporting with regard to the reporting on securitisations, on asset encumbrance and the reporting for the purposes of identifying G-SIIs and assigning G-SII buffer rates. Besides that, it also includes a number of minor amendments to the reporting on own funds and own funds requirements.

COREP securitisations

Amendments to the securitisation framework came into force in April 2021. This comprises of amendments to the Securitisation Regulation (Regulation (EU) No 2017/2402) and to the CRR (Regulation (EU) No 575/2013) in the context of the Capital Markets Recovery Package (CMRP), as part of the Commission's overall coronavirus recovery strategy. These changes should be reflected in COREP reporting requirements to keep reporting aligned with the prudential requirements.

Given the need to amend the COREP Own Funds module with respect to securitisations, there was an opportunity presented for further amendments to the reporting templates and instructions after lessons learnt from the implementation of the reporting framework v3.0.

Asset encumbrance

In line with the recommendations presented in the Study on the cost of compliance with supervisory reporting requirements, this consultation paper sets out a proposal for (i) exempting small and non-complex institutions from the reporting of more detailed data on asset encumbrance (F 33, F 34, F 36) and (ii) changing the definition of the level of asset encumbrance to create a level playing field between entities applying different accounting standards.

Reporting for the purposes of identifying G-SIIs and assigning G-SII buffer rates

This consultation paper suggests extending the reporting obligation to standalone entities that meet the relevant criteria, i.e. have a total exposure measure ≥ 125 bn EUR and are located inside the banking union.

Next steps

After a consultation period of 3 months the EBA will finalise the draft ITS and submit the amending final draft ITS to the EU Commission, together with the amendments to the additional liquidity monitoring metrics reporting, which is expected to take place in December 2021. The EBA will also develop the data-point model (DPM), XBRL taxonomy and validation rules based on the final draft ITS. The first reference date for the application of these technical standards is foreseen to be December 2022. The expected implementation period for the proposed changes is approximately 1 year.

3. Background and rationale

1. The EBA reporting framework (as reflected in the ITS) is uniformly and directly applicable to reporting institutions, ensuring a level playing field in the area of reporting and facilitating data comparability. The EBA reporting framework has evolved over the years, ever since the first reporting framework was published in 2013. The EBA has periodically reviewed the content of the reporting requirements to ensure its continued relevance and alignment with the underlying regulation. In addition, the EBA has developed and maintained the technical package and the version management system to facilitate the implementation and supporting of the reporting processes.
2. The Single Rulebook aims to provide a single set of harmonised prudential rules for financial institutions throughout the EU, helping to create a level playing field for all regulated institutions and providing high protection to depositors, investors and consumers. These draft Implementing Technical Standards (ITS) reflect the Single Rulebook provisions at the reporting level and are an integral part of it for financial institutions in Europe. These standards become directly applicable in all Member States once adopted by the European Commission and published in the Official Journal of the EU.
3. Regulation (EU) No 575/2013 ('the CRR')¹ mandates the EBA, in Article 430(7), to develop uniform reporting requirements. These reporting requirements are included in the proposed Implementing Technical Standards and they will become final following their adoption by the European Commission. These standards cover information on institutions' compliance with prudential requirements as put forward by the CRR and related technical standards as well as additional financial information required by supervisors to perform their supervisory tasks. Hence, the ITS on supervisory reporting needs to be updated whenever the underlying legal requirements change or it is necessary to improve the supervisors' ability to monitor and assess institutions.

3.1 COREP securitisations

3.1.1 Revised securitisations framework

4. On 24 July 2020, European Commission adopted a Capital Markets Recovery Package, as part of the Commission's overall coronavirus recovery strategy. These measures aim to make it easier for capital markets to support European businesses to recover from the crisis. The package proposes targeted changes to capital market rules, which will encourage greater investments in the economy, allow for the rapid re-capitalisation of companies and increase banks' capacity to finance the recovery.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0575&from=fr>



5. The package contains targeted adjustments to the Prospectus Regulation, MiFID II and securitisation rules. Changes to the securitisations framework comprises Regulation (EU) 2021/558 of the European Parliament and of the Council of 31 March 2021 amending CRR² and Regulation (EU) 2021/557 of the European Parliament and of the Council of 31 March 2021 amending the Securitisations Regulation³.
6. The aim of these changes is to facilitate the use of securitisation in Europe's recovery by enabling banks to expand their lending and to free their balance sheets of non-performing exposures. It is helpful to let banks transfer some of the risk of SME (small and medium-sized enterprises) loans to the markets so that they can keep lending to SMEs. In particular, the Commission proposes creating a specific framework for simple, transparent and standardised on-balance-sheet securitisation that would benefit from a prudential treatment reflecting the actual riskiness of these instruments. In addition, the Commission proposes to remove existing regulatory obstacles to the securitisation of non-performing exposures. This can help banks offload non-performing exposures that can be expected to grow because of the coronavirus crisis.

3.1.2 Implementation in reporting requirements

7. The changes to the securitisations framework introduced a number of new concepts, which are not captured in the current reporting framework. Competent authorities will need this information to verify if the new regulation amendments are being implemented correctly. Besides that, the EBA is mandated to draft reports which will rely on this data, namely on NPE securitisations, the application of the collateralisation practices and on STS on-balance sheet securitisations.
8. These new concepts were introduced alongside the securitisations templates (C 13.01, C 14.00 and C 14.01) as follows:
 - a. **STS on-balance sheet securitisations:**
 - i. Introduced as a new row in C 13.01;
 - ii. Two more rows in that templates had to be adjusted accordingly.
 - b. **NPE securitisations:**
 - i. A new block of rows containing information on NPE and qualifying NPE securitisations was introduced in C 13.01 for each securitisation role;
 - ii. The options to report the "Securitisation type" in C 14.00 were adjusted to include these new concepts;

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0558&qid=1619095803079>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0557&qid=1619095803079>



- iii. The specific treatment for senior tranches for qualifying NPE securitisations was included as a new approach in the columns of C 13.01, in the RWA and Exposure amount breakdowns. Moreover, it was included as a new sheet in C 14.01.

c. Synthetic excess spread:

- i. The type of excess spread was included in C 14.00;
- ii. The amount of synthetic excess spread was include both in C 14.00 and C 14.01, as part of the off-balance sheet items and derivatives.

d. Collateralisation practices:

- i. Information on the amortisation system, collateralization options and overcollateralization and funded reserves accounts was included in C 14.00.

3.2 Other amendments to COREP Own Funds

3.2.1 Intangible software assets exempted from the deduction from CET1 capital

9. The Risk Reduction Measures (RRM) package adopted by the European legislators included, inter alia, an amendment to Article 36(1), point (b) CRR that introduced an exemption of ‘prudently valued software assets the value of which is not negatively affected by resolution, insolvency or liquidation of the institution’ from the deduction of intangible assets from Common Equity Tier 1 (CET1) items. That amendment was accompanied by a mandate for EBA to develop draft regulatory technical standards ‘to specify the application of the deductions referred to in paragraph 1, point (b) including the materiality of the negative effects on the value which do not cause prudential concerns’ (RTS on software).

10. In response to that mandate, the existing RTS on own funds requirements for institutions⁴ was amended through Commission Delegated Regulation (EU) 2020/2176. This Delegated Regulation introduced a treatment of software assets based on their prudential amortisation over a maximum period of three years and is applicable since 23 December 2020.

11. Given the level of attention that the legislators gave to the treatment of software assets, this consultation papers sets out proposals for limited amendments to COREP aimed at collecting information on:

- the portion of software assets that is deducted from CET1 items pursuant to the new prudential treatment, and
- the amount of software accounted as intangible assets that is risk weighted in accordance with Articles 113(5) and 156 CRR.

⁴ Delegated Regulation (EU) No 241/2014



12. In the context of the development of the RTS on software, it was noted that some institutions might opt to continue deducting intangible software assets in full, for operational or other reasons, instead of applying the provisions of the RTS on software. Where an institution chooses to apply such a stricter treatment in accordance with Article 3 CRR, they can continue reporting the full deduction in the row reserved for those software assets, instead of splitting the amount between the mandatory deduction required by the RTS and the voluntary additional deduction in accordance with Article 3 CRR.

3.2.2 Technical amendments

13. This consultation paper sets out a number of minor amendments to the templates and instructions on reporting, that aim to improve the clarity of the reporting requirements without entailing substantive changes. Those amendments are driven by answers to questions raised in the context of the single rulebook Q&A mechanism, the experience of using the reported data for supervision, the experience with data quality assurance and feedback from institutions compiling the data, as well as the completion of technical standards by the EBA. In addition, typos, erroneous references and formatting inconsistencies are corrected.

3.3 Asset Encumbrance

14. In line with the recommendations presented in the Study on the cost of compliance with supervisory reporting requirements⁵, this consultation paper sets out a proposal for (i) exempting small and non-complex institutions (SNCI, see criteria of Article 4 (1), point (145) CRR) from the reporting of more detailed information on asset encumbrance (F 33, F 34, F 36) and (ii) changing the definition of the level of asset encumbrance to create a level playing field between entities applying different accounting standards.

15. Currently, SNCI – as well as medium institutions – submit the data included in templates F 33, F 34 and F 36 of the asset encumbrance reporting framework, where their asset encumbrance level, as determined in accordance with the provisions of the ITS on Supervisory Reporting, reaches or exceeds 15 %. This consultation paper suggests to replace that risk-based threshold by a generic exemption of SNCI from this part of the reporting obligation based on their size and complexity (and irrespective of their level of risk). The risk-based threshold would keep applying to medium entities.

16. In the context of the cost of compliance study, a number of institutions criticised also the definition of the asset encumbrance level. They argued that the threshold specified in the ITS on Supervisory Reporting is often already broken solely because of the inclusion of promotional loans in its calculation. Those institutions suggested that this kind of transaction should benefit from a preferential treatment, arguing that this kind of instrument is supporting economic recovery and development and other political objectives.

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https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Reports/2021/1013948/Study%20of%20the%20cost%20of%20compliance%20with%20supervisory%20reporting%20requirement.pdf



17. Besides that, Q&A 2019_4969 raised the point of differences in the treatment of promotional loans that take the form of fiduciary assets between IFRS and nGAAP. Under certain nGAAPs, fiduciary assets, albeit not entailing credit risk for the reporting entity (but only the guarantor), have to be included in the balance sheet and consequently reported as encumbered in asset encumbrance reporting. In contrast, the same type of asset is not part of the balance sheet under IFRS and therefore falls outside the scope of asset encumbrance reporting.
18. This consultation paper suggests to keep the scope of items covered by asset encumbrance reporting unchanged – i.e. all assets on the balance sheet continue to be reported across all templates.
19. However, a row labelled ‘of which: qualifying fiduciary assets’ is added to template F 32.01. That row captures the abovementioned fiduciary assets that are accounted for differently under nGAAP and IFRS. The formula for determining the level of asset encumbrance is amended, in order to exclude those fiduciary assets both from the numerator and the denominator of the ratio, when assessing whether an institution exceeds the threshold of 15%.
20. This entails that all fiduciary assets keep being reported in all the asset encumbrance templates, but would make it less likely that institutions – medium institutions – breach the 15% threshold because of those fiduciary assets.
21. Besides the amendments to the substance of the asset encumbrance reporting, a small number of editorial amendments (e.g. updates to references) are made and the row, column and sheet numbers of the templates are updated to a four-digit-format.

3.4 Reporting for the purposes of identifying G-SIIs and assigning G-SII buffer rates

22. This consultation paper suggests to extend the obligation to report core information for the purposes of identifying G-SIIs and assigning G-SII buffer rates in accordance with an EU-specific methodology – currently only applicable to banking groups at consolidated level – to standalone entities (entities not subject to supervision on a consolidated basis in the EU) that meet the relevant criteria, i.e. have a total exposure measure ≥ 125 bn EUR and are located inside the banking union.
23. This extension has the merit of fostering a level playing field across very large institutions of the EU regardless of their legal form.
24. While a standalone institution is, in principle, less likely to bear or amplify systemic risk, it is noted that the indicators through which systemic importance is measured in the G-SII framework are equally quantifiable for both banking groups and standalone institutions.
25. The aim of this extension is therefore to ensure that also standalone institutions are covered by this specific reporting obligation. No additional reporting is introduced for banking groups or their affiliates, as those are already subject to existing reporting requirements for the purposes of identifying G-SIIs at the highest level of consolidation.

4. Draft implementing technical standards

In between the text of the draft ITS that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.



COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending Commission Implementing Regulation (EU) 2021/451 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012⁶ and in particular Article 430(7), first subparagraph, Article 430(9), second subparagraph, and Article 430b(6), first subparagraph thereof,

Whereas:

- (1) Without prejudice to the competent authorities' powers under of Article 104(1), point (j) of Directive 2013/36/EU⁷ and with a view to increasing efficiency and reducing the administrative burden, a coherent reporting framework should be established on the basis of a harmonised set of standards. Commission Implementing Regulation (EU) No 2021/451⁸ specifies, on the basis of Article 430 of Regulation (EU) No 575/2013, the modalities according to which institutions are required to report information relevant to their compliance with Regulation (EU) No 575/2013. That Regulation should be amended to reflect prudential elements introduced in Regulation (EU) No 575/2013.

⁶ OJ L 176, 27.6.2013, p. 1.

⁷ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338)

⁸ Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (OJ L 97, 19.3.2021, p. 1–1955)



- (2) Regulation (EU) 2021/558⁹, amending Regulation (EU) No 575/2013, together with Regulation (EU) 2021/557¹⁰, amending Regulation (EU) No 2017/2402¹¹, have introduced targeted adjustments to the securitisations framework, which should be included in the reporting framework. These changes came in the context of the Capital Markets Recovery Package, as part of the Commission's overall coronavirus recovery strategy.
- (3) Commission Delegated Regulation (EU) 2020/2176¹², amending Delegated Regulation (EU) No 241/2014¹³, detailed the exemption of software assets from the deduction from CET 1 items. Minor amendments to the reporting are needed to provide supervisors with some basic information on institutions' implementation of the requirements of that delegated regulation.
- (4) The study on the cost of compliance with supervisory reporting requirements in accordance with Article 430 (8) of Regulation (EU) No 575/2013 recommended to exempt small and non-complex institutions from the reporting of certain asset encumbrance templates and to make adjustments to the definition of the level of asset encumbrance. Regulation (EU) 2021/451 needs to be updated to implement these recommendations.
- (5) Regulation (EU) 2021/451 includes already the reporting of core information for the purposes of identifying G-SIIs and assigning G-SII buffer rates in accordance with an EU-specific methodology on consolidated level. However, the indicators through which systemic important is measured in the G-SII framework are equally applicable to banking groups and individual institutions. Therefore, amendments to Regulation (EU) 2021/451 are needed to extend the reporting obligations to standalone entities that meet the criteria for being included in the G-SII assessment exercise.
- (6) Further amendments to Implementing Regulation (EU) 2021/451 are also required to improve competent authorities' ability to effectively monitor and assess the institutions' risk profile.
- (7) This Regulation is based on the draft implementing technical standards submitted by the European Banking Authority (EBA) to the Commission.
- (8) EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and

⁹ Regulation (EU) 2021/558 of the European Parliament and of the Council of 31 March 2021 amending Regulation (EU) No 575/2013 as regards adjustments to the securitisation framework to support the economic recovery in response to the COVID-19 crisis (OJ L 116, 6.4.2021, p. 25–32)

¹⁰ Regulation (EU) 2021/557 of the European Parliament and of the Council of 31 March 2021 amending Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis (OJ L 116, 6.4.2021, p. 1–24)

¹¹ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35–80)

¹² Commission Delegated Regulation (EU) 2020/2176 of 12 November 2020 amending Delegated Regulation (EU) No 241/2014 as regards the deduction of software assets from Common Equity Tier 1 items (OJ L 433, 22.12.2020, p. 27–29)

¹³ Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014, p. 8–26)



benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010¹⁴ in relation to those.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2021/451 is amended as follows:

- (1) Article 19, paragraph 2 and 3 are replaced by the following:
2. The information referred to in paragraph 1 shall be submitted with the following frequency:
 - (a) the information specified in Annex XVI, Parts A, B and D, with a quarterly frequency;
 - (b) the information specified in Annex XVI, Part C, with an annual frequency;
 - (c) the information specified in Annex XVI, Part E, with a semi-annual frequency.
3. The information referred to in paragraph 1 shall be submitted as follows:
 - (a) Institutions shall submit the information specified in Annex XVI, Part A.
 - (b) Large institutions shall submit the information specified in Annex XVI, Parts B, C and E.
 - (c) Institutions that are neither large institutions nor small and non-complex institutions shall submit the information specified in Annex XVI, Parts B, C and E, where the asset encumbrance level of the institution, as calculated in accordance with Annex XVII, point 1.6, sub-point 9, is equal to or above 15 %.
 - (d) Institutions shall report the information specified in Annex XVI, Part D, only where they issue bonds referred to in Article 52(4), first subparagraph, of Directive 2009/65/EC of the European Parliament and of the Council .

The entry and exit criteria of Article 4(3) shall apply.

- (2) Paragraph 4 of Article 19 is deleted.
- (3) Article 20 is replaced by the following:

Article 20

Supplementary reporting for the purposes of identifying G-SIIs and assigning G-SII buffer rates

1. In order to report supplementary information for the purposes of identifying G-SIIs and assigning G-SII buffer rates under Article 131 of Directive 2013/36/EU, EU parent institutions, EU parent financial holdings and EU parent mixed financial holdings shall

¹⁴ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).



submit the information as specified in Annex XXVI, in accordance with the instructions in Annex XXVII, on a consolidated basis with a quarterly frequency.

EU parent institutions, EU parent financial holdings and EU parent mixed financial holdings shall only submit the information referred to in paragraph 1, where both of the following conditions are met:

- (a) the total exposure measure of the group, including insurance subsidiaries, is equal to or exceeds EUR 125 000 million;
- (b) the EU parent or any of its subsidiaries or any branch operated by the parent or by a subsidiary is located in a participating Member State as referred to in Article 4 of Regulation (EU) No 806/2014 of the European Parliament and of the Council¹⁵.

2. In order to report supplementary information for the purposes of identifying G-SIIs and assigning G-SII buffer rates under Article 131 of Directive 2013/36/EU, institutions shall submit the information as specified in Annex XXVI, in accordance with the instructions in Annex XXVII, on an individual basis with a quarterly frequency, where all of the following conditions are met:

- (a) the total exposure measure of the institution is equal to or exceeds EUR 125 000 million;
- (b) the institution is located in a participating Member State as referred to in Article 4 of Regulation (EU) No 806/2014 of the European Parliament and of the Council;
- (c) the institution is not part of a group that is subject to consolidated supervision in accordance with Chapter 1, Title II, Part One of Regulation (EU) No 575/2013 ('standalone institution').

3. By way of derogation from Article 3(1), point (b), the information referred to in paragraphs 1 and 2 of this Article shall be submitted by close of business on the following remittance dates: 1 July, 1 October, 2 January and 1 April.

4. By way of derogation from Article 4, the following shall apply with regard to the thresholds specified in paragraph 2, point (a), and paragraph 3, point (a), of this Article:

- (a) the EU parent institution, EU parent financial holding, EU parent mixed financial holding or standalone institution, as applicable, shall immediately start reporting the information in accordance with this Article where its leverage ratio exposure measure exceeds the specified threshold as of the end of the accounting year, and shall report this information at least for the end of that accounting year and the subsequent three quarterly reference dates;
- (b) the EU parent institution, EU parent financial holding, EU parent mixed financial holding or standalone institution, as applicable, shall immediately stop reporting

¹⁵ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).



the information in accordance with this Article where its leverage ratio exposure measure falls below the specified threshold as of the end of their accounting year.

- (4) Annex I to Regulation (EU) 2021/451 is replaced by Annex I to this Regulation.
- (5) Annex II to Regulation (EU) 2021/451 is replaced by Annex II to this Regulation.
- (6) Annex XVI to Regulation (EU) 2021/451 is replaced by Annex III to this Regulation.
- (7) Annex XVII to Regulation (EU) 2021/451 is replaced by Annex IV to this Regulation.

Article 2

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

It shall apply from 1 December 2022.

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

Done at Brussels,

*For the
Commission The
President*

*On behalf of the
President [Position]*

Questions for consultation

Question 1:

Are the instructions and templates, as presented in the annexes to this consultation paper, clear to the respondents?

Question 2:

Do the respondents identify any discrepancies between these templates and instructions and the calculation of the requirements set out in the underlying regulation?

Question 3:

Do the respondents agree that the amended ITS fits the purpose of the underlying regulation?

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

As per Article 15 of Regulation (EU) No 1093/2010 (EBA Regulation), any implementing technical standards developed by the EBA shall be accompanied by an Impact Assessment (IA) which analyses ‘the potential related costs and benefits’.

This analysis presents the IA of the main policy options involved in this Consultation Paper on the Draft Implementing Technical Standards amending the ITS with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 with regard to COREP securitisations and Asset Encumbrance. The IA is high level and qualitative in nature. With regard to the proportionality assessment specifically, the scope of application of the revised ITS does not justify a data collection for the conduct of a quantitative impact assessment. Instead, the EBA conducted an evidence-based qualitative assessment, to evaluate whether the revision of the imply an appropriate cost of reporting reduction for SNCIs.

A. Problem identification and background

The revised CRR and Securitisation framework has introduced several new concepts pertaining to securitisation (NPE securitisations, synthetic excess spread), as well as approaches to their regulatory treatment. Besides that, the special treatment of software assets in the context of the own funds framework, introduced originally through the CRR2, has been specified in more detail in the meantime. These changes in the content of the prudential frameworks entail corresponding changes in the reporting frameworks.

Recommendations from the study Cost of Compliance of banks with regulatory requirements include a number of recommendations related to the Asset Encumbrance templates that could be immediately implemented due to their technical nature.

B. Policy objectives

The objective of the amendments to the ITS is to ensure the reporting of all the relevant information for supervisors in accordance with Article 430 of the CRR, ensuring that supervisors continue to receive sufficient reporting information on all entities to be able to fulfil their mandates. In addition, when referring to the changes in the Asset Encumbrance templates, the aim of the amendments is to introduce proportionality in the reporting of Asset Encumbrance, taking into account the insights gained from the Cost of Compliance study.



As is common practice when the EBA is mandated to revise ITS, RTS or Guidelines, other features (in addition to the mandate) are also being addressed as part of the revision of these ITS, drawing on the experience from supervisory practices so far and additional clarifications from the Q&A process.

C. Options considered, assessment of the options and preferred options

Section C. presents the main policy options discussed and the decisions made during the revision of the templates and instructions. Advantages and disadvantages, as well as potential costs and benefits of the policy options and the preferred options resulting from this analysis are assessed below.

Changes made for clarification purposes where not included here as they do not incur any costs or disadvantages.

1. Template C 13.01: Changes on reporting securitisations with differentiated capital treatment

Option 1a: Integrate new concepts in the reporting framework

Option 1b: Not integrate new concepts in the reporting framework

Template C 13.01 includes information on an aggregated bases of securitisations under the securitisation framework introduced with the Regulation 2017/2402. In this template, banks have to report, among other things, securitisations that qualify for differentiated capital treatment in row 0030, as well their breakdown in rows 0040 and 0050. In the past these included securitisations that fulfil the criteria of Article 243 (Traditional securitisation) and those of Article 270 CRR (Senior STS positions).

Following amendments in the CRR, senior STS positions in SMEs will continue to qualify for differentiated capital treatment, but only those grandfathered, and with a reference to criteria in a different article - Article 494c, instead of Article 270. This change is only at the level of instructions and templates, but does not change the amounts reported by the banks, so does not have any costs.

In addition, an additional category of securitisations is to be added that fulfill the criteria of the amended Article 270 of the CRR, specifically senior positions in STS on-balance sheet securitisations. Adding the new concept is necessary in order to be able to monitor the application of the new rules with regard to securitisations qualifying for differentiated capital treatment. Moreover, the application of differentiated capital treatment means that the banks will have to identify these types of securitisations irrespective of reporting rules. Therefore, the costs of reporting these amounts that have already been identified will be minimal.

For this reason, **Option 1a, i.e. to apply the changes, was chosen as way forward.**



2. Additional breakdown of securitisations by NPE and non-NPE in Template C13.01, and additional type in C14.00

Option 2a: Integrate the new concepts in the reporting framework

Option 2b: Not integrate new concepts in the reporting framework

The Commission proposes to remove existing regulatory obstacles to the securitisation of non-performing exposures, in order to help banks offload non-performing exposures that can be expected to grow because of the coronavirus crisis.

The new rows proposed in C 13.01, as well as the additional type category in the “Security type” in C 14.00 aim to capture the exposures to NPE securitisations that qualify for the new category. If the new category applies, the banks will have to identify these types of securitisations irrespective of reporting rules. Therefore, the costs of reporting the amounts, will be incremental and minimal.

For this reason, **Option 2a, i.e. to apply the changes, was chosen as way forward.**

3. NPE securitisations: New columns for new NPE approach Changes in Template C 13.01

Option 3a: Integrate the new approach as a separate column in the reporting framework

Option 3b: Integrate the new approach as part of SEC-SA

The newly identified NPE exposures that qualify for a specific approach of a flat RW rate of 100%, could be reported in one of the two ways: either as parts of SEC-SA under that 100% RW band (as a simplification), or as a separate new approach reflecting the special nature of these securitisations compared to other securitisations.

Reporting the exposure values of these exposures under the SEC-SA would mix together different type of exposures (and different CRR articles), which may impede the monitoring of the application for this new approach. Since these exposures will have to be identified separately anyway in order to apply the approach, reporting them separately should not incur significant additional costs. In addition, the EBA has to produce a Report on NPE securitisations (Art 506b CRR) by 10 October 2022. Therefore **Option 3a is preferred.**

4. Synthetic excess spread: Changes to Template C 14.00 and C 14.01

Option 4a: Integrate the new concept of “synthetic excess spread” in the reporting framework

Option 4b: Not integrate new concept of “synthetic excess spread” in the reporting framework

The amendments to the CRR and the Securitisation framework recognize “Synthetic excess spread” as a position that is subject to capital requirements. To capture this new concept, additional columns were added in Templates C 14.00 and C 14.01, as part of the off-balance sheet items and derivatives.



The information is needed for the EBA and NCAs to be able to monitor the compliance of banks with the new requirements. The banks will have to identify these types of securitisations irrespective of reporting rules. , the costs of reporting the amounts, will be incremental and negligible. In addition, The EBA has also been asked to produce Report on STS on-balance sheet securitisations (included on SES) by 10 April 2023. **Therefore, Option 4a is preferred.**

5. Template C 14.00: Collateralisation practices

Option 5a: Integrate the new concepts in the reporting framework

Option 5b: Not integrate new concepts in the reporting framework

The amendments to the Securitisation framework include additional provisions with regard to the STS criteria for synthetic securitisations. Article 26e includes several alternatives for collateralization of the CCR of the protection provider but also of the collateral of the originator to protect investors. The EBA has also been asked to produce a report on application of the collateralisation practices (Article 26e SECR) by 10 April 2023.

Information on the amortization system, collateralization options and overcollateralisation and funded reserves accounts was included in C 14.00. The banks have to report the information on these cells if they use one of the provided options for collateralization. Therefore, the reporting itself incurs only incremental and negligible costs. Moreover, given that EBA needs this information to deliver the report to the European Commission, Option 5a is preferred.

6. The treatment of software assets: own funds templates

Option 6a: Collect more detailed information on the amounts of software assets deducted and risk weighted

Option 6b: Not collect more detailed information on software assets

The approach to determine the type and amount of software assets that can be risk weighted instead of having to be deducted from own funds has been specified in more detail through amendments to the RTS on own funds. Given the level of attention that the legislators gave to the treatment of software assets, and the focus on their prudent valuation, it is important for the EBA and NCA to monitor the application of the new approach. Where banks choose to apply this new approach, the amount will have to be calculated in any case, so the reporting will not add significant incremental costs. Therefore, **Option 6a is preferred.**

7. Exempting SNICs from reporting detailed information on asset encumbrance

Option 7a: Apply Recommendation 11 from the Cost of Compliance Study:

Option 7b: Not apply Recommendation 11 from the Cost of Compliance Study



According to the Study on the cost of compliance with supervisory reporting requirements¹⁶, SNCIs that responded to the questionnaire to institutions perceive the reporting of on asset encumbrance as very costly. On the other hand, competent authorities consider core information on the level of asset encumbrance as very important for a variety of purposes even in case of SNCI, including the assessment of institutions' potential of obtaining additional funding on an on-going basis or in the context of recovery or resolution measures. For that reason, the possibility of a complete exemption of SNCIs from reporting data on asset encumbrance was excluded.

After analysing the feedback from both the institutions and user questionnaires, the EBA recommended in the report to exempt SNCI irrespective of their level of asset encumbrance from the reporting of the information included in the F 33-, F 34- and F 36-templates. The application of this change is expected to bring in the short-term medium costs savings mostly to ongoing reporting costs for SNCI with asset encumbrance levels above the original threshold before the revision.

Therefore, Option 7A is the preferred option.

More details about the other options considered, as well as their advantages and disadvantages are discussed in the Study on the cost of compliance with supervisory reporting requirements.

8. Changing the definition of the level of asset encumbrance

Option 8a: Change the formula for determining the AE levels only and include an extra row for reporting fiduciary assets

Option 8b: Change AE definition entirely by excluding fiduciary assets from the scope of reported assets

Option 8c: Do not apply any changes to the AE definition or AE levels for reporting purposes

As part of the study on Cost of Compliance, the EBA recommended the refinement of the definition of the asset encumbrance level that would exclude those promotional loans – specifically fiduciary assets - that are accounted differently under IFRS and certain national GAAPs.

A change in the definition of AE would lead to the exclusion of relevant assets from the reporting, reducing the level of transparency and insightfulness. Therefore, to ensure that all the encumbered assets are covered, only the formula for determining the AE level for reporting purposes was modified to exclude fiduciary assets. In this way, the overestimation of the AE levels due to accounting treatment will not trigger unduly reporting requirements, while the data will still be reported separately and transparently in a row dedicated for fiduciary assets. The costs will be minimal and only reflecting the additional reporting of the fiduciary assets in a separate row.

Therefore, **Option 8A is preferred**

¹⁶

https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Reports/2021/1013948/Study%20of%20the%20cost%20of%20compliance%20with%20supervisory%20reporting%20requirement.pdf

5.2 Overview of questions for consultation

Question 1: Are the instructions and templates, as presented in the annexes to this consultation paper, clear to the respondents?

Question 2: Do the respondents identify any discrepancies between these templates and instructions and the calculation of the requirements set out in the underlying regulation?

Question 3: Do the respondents agree that the amended ITS fits the purpose of the underlying regulation?