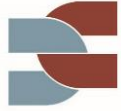


EACB Comments

Draft Guidelines on supervision of significant branches (EBA/CP/2016/24)

Brussels, 17th March 2017



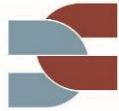
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Introduction

The members of the EACB welcome the opportunity to comment on the EBA draft Guidelines on the supervision of significant branches.

Improving the convergence of supervisory practices between home and host supervisors is of the utmost importance in a time of heightened regulatory and economic uncertainty. Moreover, a clear framework for the identification of significant branches by host authorities would allow institutions to form solid expectations and develop consistent practices.

We would like to highlight that branches have no independent legal personality or separate legal status and they form integrally part of their mother company, differently from subsidiaries. Being integrated within the supervisory framework of the credit institution of which they are a part, they should continue to be subject to specific supervision as such. This exercise should rather help in clearly determining the scope of the branches subject to host supervision and, and optimizing, if not minimizing, the burden that host authorities may impose on branches.

Finally, supervisory dialogue with institutions must remain central. In addition to the use of quantitative criteria, exchange between institutions and competent authorities shall be key to determine if a branch is to be considered significant or not. We suggest to include in the GL a clarification in this respect.

Answers to specific questions

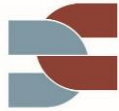
Q1: What are the respondents' views on the overall approach to the organisation of supervision of the subset of significant branches with particular importance to the group or institution or to the financial stability in the host Member State (significant-plus branches)?

In the current drafting, the scope set out in the draft GL is unclear in determining to what extent it would apply to significant branches, and significant-plus ones.

First, it should be clarified that the GL would not apply to significant branches of institutions operating in a euro-zone (SSM) Member State different than the one where the parent company operates. NCAs within the SSM should not advocate the use of the GL to be applied on branches of banks already supervised at SSM level.

Within the SSM home and host supervision is harmonised and under the ultimate responsibility of the single supervisor, the ECB. In this situation no national prerogatives are justified while the SSM framework is applicable under ECB's responsibility.

Where either the significant branch or its mother company or both are not located within SSM participating Member States, and even for significant-plus branches, the home authority must remain the leading supervisory authority. It shall maintain the key role in defining and coordinating supervisory actions including those that are carried out by host authorities.



In fact, we would like to stress that assessing a branch on a stand-alone basis could result in a partial risk assessment that does not appropriately picture risks. The branch must be assessed as a part of the entity in order to avoid imposing additional constraints, e.g. where funding models are centralised. Also for recovery or resolution issues, branches cannot be dealt with in isolation from their mother company.

Q2: What are the respondents' views on the approach to and the criteria used for the identification of significant-plus branches (intensification test)?

Overall, we believe that quantitative criteria could be clarified with more precision. Art. 51 CRD IV provides an idea for a set of criteria for identifying significant branches. The draft GL however do not detail this more clearly but rather increase complexity by adding new criteria for identifying so-called significant-plus branches.

As Table 1 of the draft GL indicates, current practices across Member States are heterogeneous. Thus, a lack of certainty and transparency on objective and measurable quantitative criteria for determining significant branches, and significant-plus ones, could trigger host authorities to consider some branches as significant against qualitative considerations.

Transparency is needed also to allow credit institutions to have clear expectations with respect to the status of their branches for supervisory purposes.

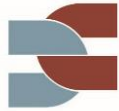
Q3: What are the respondents' views on the determination of significance plus of the branch using the methodology for the identification of O-SII and whether such assessment can be meaningfully performed based on the data available to the host competent authorities?

See Q2.

Q4: What are the respondents' views on the proposed approach to introducing branch risk assessment to be performed for significant-plus branches as part of SREP (section 5.1)?

The difference between subsidiaries and branches where the mother company absorbs all losses should be fully recognized. The methodology for the identification of O-SII could be a sensible approach to identify significant-plus branches. However, there is a difference that must be maintained between subsidiaries and branches.

Introducing the SREP approach at branch level would even override the CRR objectives. Also, the GL should not lead to interference with the group recovery plans defined for the parent credit institution (including respective branches), and which are being discussed between home and host supervisors within Recovery Colleges.



Q5: What are the respondents' views on the proposed approach to the collection and exchange of information needed for the supervision of significant-plus branches (Section 5.4)?

Our Members indicate that the EBA GL would constitute additional burden for institutions despite the intentions stated in the draft. Indeed, all the documentation to be provided by the host to the home authority will necessarily have to be produced by the concerned branch.

Moreover, additional work would be requested due to the intensified supervisory activities in relation to a significant-plus branch and the additional specific on-the-spot checks and inspections. These supervisory activities will necessarily be performed in cooperation (information requests, interviews, etc.) with the institution.

The same goes for the input from the host authority in relation to the recovery plan, as set out in para. 69 of the draft GL. We expect that this would also result in additional information requests to the branch/institution.

We consequently ask the EBA to clarify that any assessment of significance performed by a host supervisor should primarily rely on current and existing regulatory reporting and avoid situations where ad hoc reporting (without any common template) would be required by hosts.

Q6: What are the respondents' views on the proposed approach to the communication framework for a significant-plus branch, including communication with an institution and the branch (Section 5.6)?

Q7: What are the respondents' views to the proposed approach to the cooperation between the consolidating supervisors, home and host competent authorities for the purposes of the assessment of recovery plans (Section 5.7)?

In the draft GL, the EBA proposes that home authorities, host authorities and the responsible for supervision on a consolidated basis, shall be able to divide the tasks of the supervisory program of the college and even jointly carry out such supervision.

We understand that the objective is to organize the monitoring work so as to enable the best placed authorities to carry out the relevant tasks, but this shall be done without changing the distribution of powers and responsibilities between the authorities.

It should be avoided that supervision of the significant-plus branches by the home authority shifts massively to a college of supervisors. Certain powers proposed to be conferred to the college (in particular the coordination of the application of sanctions, section 5.5 para. 58, annual meeting with the general management of the branch see section 5.6 para. 62) rather go in this direction.



Finally, it is proposed that when the home or host authority carries out on-the-spot checks of the significant-plus branch the host or home authority respectively shall be invited to participate. This creates a blurring of roles in the field of on-the-spot checks and inspections. Art. 52 of CRD4 only recommends that information is provided at the conclusions of these checks.