EUROPEAN CENTRAL BANK

BANKING SUPERVISION

PUBLIC CONSULTATION

Draft ECB Regulation on the exercise of options and discretions available in Union law

Draft ECB Guide on options and discretions available in Union law

Template for comments

Institution/Company

European Savings and Retail Banking Group (ESBG) & World Savings and Retail Banking Institute (WSBI)

Contact person

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☒ Please tick here if you do not wish your personal data to be published.

Please make sure that each comment only deals with a single issue.

In each comment, please indicate:

- the document to which the comment refers (Regulation and/or Guide)
- the relevant article/chapter/paragraph, where appropriate
- whether your comment is a proposed amendment, clarification or deletion.

If you require more space for your comments, please copy page 2.

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Comments

Regulation	Guide	Issue	Article	Comment	Concise statement why your comment should be taken on board
☒	☐	Subject matter and scope	1	Clarification	Only significant credit institutions are under the scope of the ECB draft Regulation on the exercise of options and discretions available in Union law (draft ECB Regulation). Thus, ESBG understands that national options and discretions will remain applicable for less significant institutions. We recognise the work of the ECB as a competent authority on banking supervision and its aim to harmonise options and discretions. However, it has to be taken into account that

					significant institutions could be harmed when national treatment would be more favourable. In this respect, it would be desirable if the harmonisation was done at least with a transitional period, so institutions could adequately prepare for the new situation.
☒	☐	Unrealised losses measured at fair value	16	Clarification	The following reflections don't only apply to Art. 16 but also to Art. 17 ECB draft Regulation: Some uncertainties regarding the interpretation have been detected. The title of these Articles make reference to Paragraph 3 of the corresponding CRR Articles. However, the wordings of the Articles in the ECB draft Regulation only refer to Paragraphs 1 and 2 of Art. 467 and 468 CRR and introduce references to losses and gains on exposures to central governments classified in the 'available for sale' category. Institutions that are currently applying the exemptions (i.e. not including these losses and gains in their own funds) will be affected by the proposed new treatment. Based on this, it is important to clarify the foreseen treatment for losses and gains on exposures to central governments classified in the 'available for sale' category, and eventually to maintain this national discretion since it avoids own funds volatility.
☒	☐	Exemption from deduction of equity holdings in insurance companies from	18	Amendment	Art. 18(1) draft ECB Regulation considerably reduces the transitional period given by the competent authority in one Member State for the exemption from deduction of equity holdings in insurance companies from CET1 items.

		Common Equity Tier 1 items			Banking institutions in this Member State could be authorised not to deduct these holdings during the period from 1 January 2014 to 31 December 2022, provided that certain conditions are met. However, the draft ECB Regulation establishes a period from 1 January 2016 to 31 December 2017, which would be a reduction of five years compared to the period in the national legislation. In order to avoid unintended consequences for significant institutions in this Member State, that would be negatively affected by this time reduction, it would be desirable if the ECB applied the content of Article 18(3) in a way that allows for applying the transitional period provided for by national rules.
☒	☐	Applicable percentages for deduction from Common Equity Tier 1 of significant investments in financial sector entities and deferred tax assets that rely on future profitability	21	Clarification	In comparison with the regime in one Member State, Art. 21(2) ECB draft Regulation increases the applicable percentage to deductions of deferred tax assets (DTAs) that rely on future profitability: (a) 60% during the period from 1 January 2016 to 31 December 2016; (b) 80% during the period from 1 January 2017 to 31 December 2017; (c) 100% from 1 January 2018, The percentages provided in the national legislation are as follows (in order to not interfere in the important economic recovery process in this country):

(a) 20% during the period from 1 January 2016 to 31 December 2016;
(b) 30% during the period from 1 January 2017 to 31 December 2017;
(c) 40% during the period from 1 January 2018 to 31 December 2018;
(d) 50% during the period from 1 January 2019 to 31 December 2019;
(e) 60% during the period from 1 January 2020 to 31 December 2020;
(f) 70% during the period from 1 January 2021 to 31 December 2021;
(g) 80% during the period from 1 January 2022 to 31 December 2022;
(h) 90% during the period from 1 January 2023 to 31 December 2023;
(i) 100% from 1 January 2024.

The difference is obvious. Additionally, although Art. 21(3) ECB draft Regulation allows to derogate from Paragraph 2 and the applicable percentages would be lower, they are still significantly higher than the applicable percentages under the aforementioned national rules.

This percentage increase would indeed have a considerable impact on significant institutions in this Member State. This is not justified in ESBG's opinion and this is why we suggest that the ECB applies Art. 21(7) and (8) ECB draft Regulation. These Paragraphs state:

					"[...] 7. In the event of an unforeseen increase in the impact of the deductions provided for in paragraphs 2 and 3 which the ECB determines is material, credit institutions shall be allowed not to apply paragraph 2 or 3. 8. Where paragraphs 2 and 3 do not apply, credit institutions are allowed to apply national legislative provisions. [...]" Besides, Art. 21(7) ECB draft Regulation could be clarified: does the ECB have a certain materiality definition in mind, which would make it easier to assess the potential effect of this Paragraph? In addition, it is unclear whether the ECB intends to apply the exemption to the entire period up to 2019 or only to a specific year where the effect is deemed to be material.
☐	☒	Combining the risk committee and the audit committee	2.9.3	Amendment	The ECB considers that all significant supervised groups should have a separate risk and audit committee either at the level of the parent undertaking or the highest level of consolidation. At the subsidiary level, only non-significant institutions within the meaning of Article 76(3) CRD IV can combine the risk committee with the audit committee. The classification of a credit institution as a non-significant institution will depend on the results of the assessment made by the ECB, which considers the following aspects: "[...]

(i) the assets of the credit institution, calculated on either an individual or a consolidated basis, are equal to, or exceed, EUR 5 billion;
(ii) the credit institution has been identified as an "other systemically important institution" (O-SII);
(iii) the resolution authority has identified critical functions or critical shared services and it envisages the application of resolution tools to the credit institution, instead of orderly liquidation;
(iv) the credit institution has issued transferable shares listed on a regulated market;
(v) the internal organisation as well as the nature, scope and complexity of the activities of the credit institution would justify its classification as a significant institution within the meaning of Article 76(3)."

In this regard, the draft legislation in one Member State only takes into consideration the assets of the credit institution (equal to or exceeding EUR 10 billion) as well as the internal organisation, the nature, scope and complexity of the activities of the credit institution in order to examine whether there need be a separate risk and audit committee.

Therefore, following the ECB approach, many more credit institutions in this Member State would have to separate their risk and audit committees, which would lead to additional organisational cost and would not always be proportionate.

Furthermore, ESBG is concerned with Paragraph 9(3)(1) Section 2 ECB draft Guide, which aims to subject every institution (in

	particular subsidiaries) with assets in excess of EUR 5 billion to the requirement of separating the risk and audit committee. As stated above, this appears to constitute a disproportionate burden for these institutions. Apart from this, ESBG would like to comment on Paragraph 9(3)(iii) Section 2 ECB draft Guide, which refers to the resolution authority having identified critical functions in the institution. In our view, it is critically important to consider the relevant resolution strategy for the group or institution, in particular, whether this is based on an SPE or MPE model. Where the institution in question is not proposed to be resolved as a stand-alone entity under an MPE strategy (i.e. is not itself a resolution entity), this should not result in a requirement for a separate risk and audit committee. Hence, Paragraph 9(3)(iii) Section 2 ECB draft Guide could be rephrased. Paragraph 9(3)(iv) Section 2 ECB draft Guide makes reference to transferable shares of the institution being listed on a regulated market. Where this is the case, the institution is subject to the requirements of the relevant corporate laws, which generally include requirements related to corporate governance. In one Member State, the national commercial code includes the requirement of a listed company to have an audit committee, which also has to concern itself with matters of risk management. Therefore, the existence of listed shares on their own should not constitute a requirement for a separate risk committee, unless other criteria for significance are met. Furthermore, it is not clear how the existence of a listing would constitute a factor included in

					'size, internal organisation and nature, scope and complexity of activities' as stated in Art. 76(3) CRD for purposes of determining significance.
☐	☒	Additional non-executive directorship	2.9.4	Amendment	In accordance with Article 91(6) CRD IV, competent authorities may authorise members of the management body to hold one additional non-executive directorship. The ECB draft Guide specifies the criteria sould be examined to authorise that additional directorship: "[...] (i) whether the person holds a full-time occupation or an executive mandate; (ii) whether the person holds any additional responsibilities such as membership of committees (e.g. the person is Chair of the audit, risk, remuneration or nominations committee in a supervised entity); (iii) whether the nature, type and size of the company is such that it will demand more time (e.g. the company is regulated or listed); (iv) whether the person already benefits from the privileged counting of directorships; (v) whether the mandate is permanent or temporary; (vi) whether the person's experience of the management body or the company is such that he or she could carry out duties with greater familiarity and hence efficiency." On the contrary, the draft regulation in one Member State would only authorise that additional directorship if the proper performance of their activities and duties are not expected to be affected.

					Hence, the draft ECB Guide provides more criteria to be assessed, which could affect current directorships.
☒	☐	Default of an obligor	4	Amendment	The Article imposes a general ’90 days past due’ definition of default, even for portfolios where national regulators currently make use of the permitted discretion in Art. 178(1)(b) CRR to use 180 days past due. To ESBG, it is unclear how this requirement could actually be implemented by banks under the IRB approach that currently use the longer time period for their default definition. The default definition is a central element of the PD model used; therefore, the imposed change to the default definition would result in a material change to the PD model of the firm. This would entail significant development and validation work for the bank to establish a new PD model as well as requires a new model approval (presumably by the ECB). Furthermore, where banks use own LGD estimates (which will be the case for residential property exposures in all cases), the change of the default definition also has a material effect on the LGD model for these exposures, resulting in the same development, validation and approval needs for these models as mentioned above for PD models. The regulation fails to take into account these effects and does not provide for any transitional period for the implementation of this rule. In addition, it does not consider the underlying reasons for the

					extension of the default definition, namely specific customer behaviour, which makes modelling PD and LGD with a default definition of 90 days significantly less reliable than using the longer time period. At a minimum, there should be an appropriate transitional period that would allow for the full cycle of model development, validation and approval to be completed before imposing a different default definition as the basis for IRB RWA calculations. In addition, a detailed impact analysis of the effects of this switch should be undertaken to base the policy decision on an appropriate factual base. The explanatory memorandum does not provide any information on impact assessments conducted, and it is unclear whether the implications of this proposal have been analysed to the largest possible extent.
☒	☐	Netting	6	Clarification	Article 6 draft ECB Regulation states that national approaches should be used “pending the adoption by the ECB of its own approach pursuant to Article 327(2) CRR”. Article 327(2) CRR not only allows competent authorities to develop their own approaches, but also refers to a requirement for the EBA to monitor these approaches and issue guidelines. The CRR does not set a deadline as to the provision of these guidelines; therefore, it is not clear whether these will be available by the time the ECB plans to issue its approach. However, it should be made clear that any approach developed by the ECB will be subject to changes if it is not in line with the EBA guidelines as and when they come into force.

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☒	☐	Exemptions	9	Clarification	Art. 9(1) ECB draft Regulation states that the “exposures listed in Article 400(2)(e) to (k) CRR shall be fully exempted” from the calculation of exposures. Since Article 400(2)(i) CRR refers to a possibility to exempt 50% and 80% respectively of certain exposures, we assume that ‘fully exempted’ means the exemption of 50% and 80% of the relevant exposures. Since the wording is ambiguous, this should be clarified in the final version of the Regulation.
☒	☐	Exemptions	9	Deletion	Art. 9(2) ECB draft Regulation allows for the exemption of intra-group exposures (exposures under Art. 400(2)(c) CRR) from the large exposure limit under certain conditions, which are further specified in Annex I. Paragraph (2)(b)(v) Annex I of the ECB draft Regulation requires banks to take into account whether “there is evidence that the management of concentration risk is consistent with the group’s resolution strategy, as reflected in the recovery and resolution plans”. Paragraph 3(f) Annex I of the draft ECB Regulation states that the ECB may request “documentation showing that the management of concentration risk is consistent with the group’s resolution strategy as reflected in the recovery plan”. It should be noted that the recovery plan does not contain any information about resolution strategies; as such, any references to recovery plans should be deleted in Paragraphs 2 and 3. Furthermore, the resolution plan, including the resolution strategy, is determined by the resolution authority and may not be communicated to the bank (or the competent authority) at all. As

such, it is not possible to undertake the assessment required in Paragraph 2 Annex I of the draft ECB Regulation. On a practical level, even where the resolution strategy to be communicated to the bank, it is unclear when this will occur for a large number of European banks, as the SRB is not yet fully operational and has not yet developed a resolution plan for any bank/ banking group. It would, therefore, be impossible to comply with the requirement in Paragraph 2(b)(v) Annex I of the draft ECB Regulation at this stage, making it impossible to make use of the (currently allowed) exemption for intra-group exposures for large exposure purposes.

Thus, ESBG suggests deleting Paragraphs 2(b)(v) and 3 (f) Annex I of the draft ECB Regulation in their entirety.

Apart from this, Art. 9(3) draft ECB Regulation allows for the exemption of exposures to regional or central credit institutions (exposures under Art. 400(2)(d) CRR) from the large exposure limit under certain conditions, which are further specified in Annex II. Similar to the point above for intra-group exposures, the documentation requirements in Paragraph 3(f) Annex II of the draft ECB Regulation include “documentation showing that the management of concentration risk is consistent with the network’s resolution strategy as reflected in the recovery plan”. There is, however, no requirement to consider the resolution strategy similar to that of Paragraph 2(b)(v) Annex I of the draft ECB Regulation.

As a consequence, ESBG again suggests deleting point Paragraph 3(f) Annex II of the draft ECB Regulation in its entirety.

☒	☐	Exemptions	9	Amendment	Art. 9(4) ECB draft Regulation provides for an exemption of 80% of the nominal value of covered bonds (exposures under Art. 400(2)(a) CRR). This represents a significant change from the current treatment in some SSM Member States, where such exposures are fully exempted from the calculation basis. Given the importance of these instruments for these markets and their role in liquidity risk management (they partly qualify as Level 1 assets, otherwise as Level 2a), an exemption of only 80% of their value is deemed inappropriate in ESBG's opinion. Given the legal environment for the issuance of covered bonds in such countries, the established deep, liquid markets and their classification as Level 1 assets for liquidity purposes, a full exemption should be granted.
☒	☐	Level 2B assets	13	Deletion	Art. 12(1)(c)(i) LCR Delegated Act includes the statement "In the absence of any decision from the competent authority or public authority in relation to major stock indexes, credit institutions shall regard as such a stock index composed of leading companies in the relevant jurisdiction". The ECB seems to not allow this possibility in its proposal. However, since the LCR Delegated Act is a legally binding text, ESBG does not view the exclusion of this part of the rules to be within the remit of the ECB and therefore disagrees with the statement made in Art. 13 draft ECB Regulation. This Article does not represent a national option or discretion but states the treatment to be followed when no designation has taken place at country level. Furthermore with reference to Art 12 (1)(c)(i) LCR

					Delegated Act, there is no understanding why only shares of a major stock shall be included if the competent authority has identified the major stock index.
☐	☒	Scope, content and effect	1.2.6	Clarification	Paragraph 2(6) Section 1 ECB draft Guide makes reference to an impact assessment exercise. It is unclear whether this refers to the analysis outlined in the explanatory memorandum. This impact assessment does not cover all of the options included in the guide and does therefore not seem to be a complete basis for the assessment of the policy choices made. Paragraph 2(6) Section 1 ECB draft Guide also mentions the consideration of pronouncements made by the Basel Committee on Banking Supervision (BCBS). The BCBS set out a global framework for capital and liquidity regulation, but they are strictly speaking not a regulator as such. The BCBS proposals need to be implemented at a national or in case of the EU in most cases at a European level – Basel III for instance has been implemented in the EU through the CRR and CRD IV - and only these are the binding legal texts. Hence, only these legally binding acts should be used as a basis for the work of the ECB and any additional or diverging views of the BCBS should not be considered as they would potentially be in conflict with legal requirements within the European Union.
☐	☒	Capital Waivers	2.1.3	Clarification	Regarding Paragraph 3(1)(vi) Section 2 ECB draft Guide, ESBG would like to point out that waivers for solo requirements of subsidiaries would in many cases be granted for relatively small institutions that are not material entities for the purposes of a group recovery plan. As such, these subsidiaries would in most cases not

					be mentioned explicitly in the group recovery plan and it is unclear what the ECB expects with respect to the requirement that they are “duly taken into account”.
☐	☒	Bilateral agreement on the supervision of credit institutions in non-participating Member States	2.9.7	Deletion	Paragraph 9(7) Section 2 ECB draft Guide states that the ECB, as the supervisor of a parent institution, will “seek to assume responsibility for supervising the subsidiary” in a non-participating Member State by establishing bilateral agreements with the competent authority in the non-participating Member State. Reference is made to Art. 115(2) CRD IV. ESBG believes that this guidance is not in line with Art.115(2) CRD IV as the latter provides powers to the competent authorities responsible for supervising subsidiaries rather than to the ECB as the authority responsible for the parent company. Art. 115(2) reads “the competent authorities responsible for authorising the subsidiary of a parent undertaking … may, by bilateral agreement, … delegate their responsibility for supervision to the competent authorities which authorised the parent undertaking so that they assume responsibility for supervising the subsidiary”. Therefore, Paragraph 9(7) Section 2 ECB draft Guide should in ESBG's view be deleted as it does not relate to an option available to the ECB.
☐	☒	Supervision of mixed financial holding companies	2.9.9	Clarification	While sentence 1 of Paragraph 9(9) Section 2 ECB draft Guide appears to relate to the provisions in Article 120(1) CRD IV, the second sentence appears to be related to the provisions in Article 120(2) CRD IV.

					Moreover, it should be clarified that the choice between the two approaches cannot be taken alone by the ECB on a case-by-case basis, but has to be reached in agreement with the other competent authorities responsible for the mixed financial holding company.
☐	☒	Establishment of financial holding companies or mixed financial holding companies	2.9.10	Clarification	Paragraph 9(10) Section 2 ECB draft Guide states that the ECB “may consider it necessary to require […[the establishment of a financial holding company […] in the participating Member State” and makes reference to conditions stated in Article 127(3) CRD IV. The paragraph also makes reference to the SSM Regulation. However, the SSM Regulation does not contain any provisions in this regard. Article 127 CRD IV refers to matters related to the equivalence of third countries’ consolidated supervision. As such, Art. 127(3) CRD IV only relates to the requirement to establish a holding company in the EU when the parent company is located in a third country and where the supervisory framework is not considered ‘equivalent’ to that of the EU. It is not entirely clear to us whether the ECB is suggesting requiring the establishment of a holding company in a participating Member State for third country parent institutions or – potentially – also in cases where the parent institution is located in a non-participating member state (e.g. in the UK). The intention of Paragraph 9(10) Section 2 ECB draft Guide should, therefore, be clarified.

					Assuming the requirement is intended to relate to both cases mentioned in the previous paragraph, ESBG has reservations as to the legal basis for this requirement. In the first case, the establishment of a holding company in a participating Member State should only be considered where the (non-equivalent) third-country parent does not yet have a holding company in the Union, regardless of whether the country of incorporation of this holding is in a participating or non-participating Member State. In the second case, i.e. where the parent company is located in the Union, no additional holding in a participating Member State should be required, in our opinion.
☐	☒	Capital conservation plan	2.9.11	Amendment	Paragraph 9(11) Section 2 ECB draft Guide largely mirrors the requirements set out in Article 142 CRD IV with the exception of the specification of a maximum time limit for rebuilding capital buffers which has been set at 2 years. In our view, the imposition of a maximum limit is not in line with the objective of setting timelines on a case-by-case basis. In extreme cases (or circumstances affecting not just the institution in question but the wider economy), a longer timeframe than 2 years may be warranted. While the ECB would in these cases be able to act against its internal limit of 2 years, we believe the necessary justifications required do not warrant the imposition of the limit in the first place. Any time limit imposed must be accompanied by a reasoned explanation for the choice of period. So in the exceptional case that a period of longer than 2 years would be deemed adequate, this would need to be appropriately justified. This would, however,

					not require the separate process of explaining why the ECB acted against its own guide, in our view.
☐	☒	Redemption of Additional Tier 1 or Tier 2 instruments before five years have elapsed from the date of issue	3.2.2	Clarification	The ECB intends potentially “to develop further criteria following the assessment of future specific cases”. It is unclear whether ‘criteria’ is meant to be equivalent to ‘conditions’ stated in Article 78(4) CRR. If criteria are meant to be additional conditions, this would not be in line with the requirements in Article 78(4) CRR which lists the two conditions under which redemptions are possible. No additional conditions could be specified by competent authorities, according to ESBG's understanding. The specification of additional criteria is only considered possible if criteria are meant to refer to assessment criteria for the competent authority to be used when determining any of the following: - whether a change in the regulatory classification is significant in line with Art. 78(4)(a)(i) CRR; or - whether an institution has demonstrated to the satisfaction of the competent authority that the reclassification was not foreseeable at the time of issuance in line with Art. 78(4)(a)(ii) CRR; or - whether an institution has demonstrated to the satisfaction of the competent authority that a change in tax treatment is material and was not foreseeable at the time of issuance in line with Art. 78(4)(b) CRR.

					Thus, the wording of Paragraph 2(2) Section 3 ECB draft Guide should be amended accordingly in order to clarify the issue presented above.
☐	☒	Risk weights and LGD for exposures secured by mortgages on residential or commercial immovable property	3.3.2	Choose one option	While no details are available at this stage, the ECB appears to suggest that it will establish a methodology for setting higher risk weights for certain types of exposures secured by residential or commercial real estate and may also set minimum LGD rates for these exposures under the LGD approach. With regard to this paragraph, the scope limitation of the Guide to SSM-supervised institutions potentially creates competitive distortions in local markets. We therefore disagree with the statement made by the ECB that the consideration of national measures already in force will 'ensure a consistent approach within territories'. This would only be the case if the ECB methodology chose to keep applying the national measures to significant SSM banks, which does not appear to be the intention of the proposal. As the ECB rightly states, real estate markets differ from country to country. SSM institutions compete in their local markets with non-SSM institutions and the application of different risk weights to the same exposures inside a country clearly creates an "un-level playing field" for these product sectors. Supervisory decisions should not influence the competitive dynamics in a market and, as a result, the ECB methodology would need to carefully consider the potential effects of this guidance on individual markets. The methodology should be

	subject to a rigorous impact study at the level of individual Member States, beforehand.

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☒ Please tick here if you do not wish your personal data to be published.

Please make sure that each comment only deals with a single issue.

In each comment, please indicate:

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Comments

Regulation	**Guide**	**Issue**	**Article**	**Comment**	**Concise statement why your comment should be taken on board**
☒	☐		Recitals	Choose one option	Recital 6 ECB draft Regulation states that in accordance with the SSM Regulation, the ECB "should apply the national legislation exercising [...] options and discretions as far as those national rules do not affect the smooth functioning of the SSM". The last part of this sentence is actually not part of the SSM regulation, so it is questionable whether the ECB has the right to change options and discretions in the way envisaged.

					Recital 9 ECB draft Regulation refers to appropriate transitional periods where the ECB's exercise of discretions departs significantly from the approach taken by national competent authorities. However, the ECB draft Regulation does not seem to include any indication of transition periods.
☐	☒	Exclusion of Consolidation	2.1.8	Deletion	In exercising their supervisory competences, the competent authorities within the SSM are obliged to apply Union law. Therefore, references must be made to Union law. Basel Committee standards or other recommendations should not be included in the ONDs guide.
☐	☒	Exclusion of Proportional Consolidation	3.1.3	Deletion	In ESBG's understanding, the proposed categorical requirement of a full consolidation is not in line with Art. 18(2) CRR, which calls for a case-by-case evaluation. By denying a case-by-case evaluation, the competent authority would apply Art. 18(2) CRR in an unduly constricted manner.
☐	☒	Valuation of assets and off-balance sheet items	3.1.6	Deletion	We do not agree with the potential exercise of the option in Art. 24(2) CRR to institutions that apply national GAAP. From both the institution's and the supervisory authority's points of view, such a requirement would not be desirable, in our view. In this context, we would like to refer to recitals 19 and 39 of the SSM Regulation (EU Regulation No 1024/2013), which clearly state that the accounting regime may not be changed directly or indirectly by the competent authorities. ESBG is indeed concerned that institutions applying national GAAP would be required to introduce a mirrored accounting on the

					basis of IFRS for purely prudential purposes. This would require substantial resources from affected institutions.
☐	☒	Deduction of Holdings in the presence of IPS	2.2.6	Clarification	The first sentence of this paragraph in the ECB's draft Guide states that the ECB's permission will be granted on a case-by-case basis. The respective permission should be granted at IPS level and not at the level of the individual IPS member, in order to set equal requirements across the IPS. The proposed requirements would, in our view, unduly tighten the respective CRR provisions as reporting frequencies would be increased (from semi-annual reporting to a quarterly reporting) and the reporting scope would be changed to FINREP reporting.
☐	☒	Deduction of Holdings in the presence of IPS	2.2.6	Amendment	According to Art. 99(1) CRR, the fulfilment of own funds requirements has to be demonstrated at least semi-annually. The guide should therefore also refer to a semi-annual reporting. Otherwise, less significant institutions would consequently be burdened with two additional reports per year. In ESBG's opinion, this would be hardly in line with the principle of proportionality. Moreover, the additional value of a quarterly reporting remains unclear. In addition, the general obligation to use full COREP templates is not in line with the COREP regulation, which allows smaller institutions to use the simplified data reporting model. If the IPSs were required to apply full COREP as a whole, this provision would become irrelevant.

					Based on this, we would like to propose the following wording: “Institutional Protection Schemes are obliged to submit (consolidated) accounts on the basis of the individual accounts of their members according to Regulation (EU) 2015/534 (ECB/2015/13), either on the basis of IFRS or national GAAP.”
☐	☒	Deduction of Holdings in the presence of IPS	2.2.6	Deletion	Article 49(3) CRR does not require IPSs to report on a FINREP basis. The proposed application therefore exceeds the CRR requirement. In addition, it remains unclear which information is to be gained from the proposed reporting modalities. According to Article 49(3) CRR, the only relevant criteria are an exclusion of multiple use of eligible elements as well as an aggregate calculation that is comparable to a consolidated view. Even from a purely technical perspective, the proposed requirements would not be feasible as even the less complex reporting levels would require the reporting of around 1,400 data points at a very granular level. The reporting templates are based on an IFRS approach. In the case of individual IPS members applying national GAAP, the required IFRS data is simply not available to the IPS. With a view on less significant institutions, the proposed requirements would lead to an application of tighter FINREP requirements by more than 400 savings banks and 1,000 co-operative banks in only one specific EU Member State.

☐	☒	Deduction of Holdings in the presence of IPS	2.2.6	Amendment	ESBG is concerned about the requirement to apply uniform accounting standards within an IPS or to apply transformation calculations. While a requirement to apply transformation calculations may seem comprehensible, it should not come with too strict provisions. Most importantly, the respective requirements should not lead to institutions applying a different accounting standard for prudential reasons only. As a matter of fact, the focus of national GAAP and IFRS may be very different. This has to be taken appropriately into account when performing a transformation calculation.
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