Consultation Response

EBA consultation on proposed Draft Implementing Technical Standards on the supervisory reporting of Third Country Branches under Directive 2013/36/EU

31 October 2025

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the EBA consultation on proposed Draft Implementing Technical Standards on the supervisory reporting of Third Country Branches under Directive 2013/36/EU. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

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

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

Executive Summary

As a general principle we largely agree with the approach taken by the EBA, although clarification and further proportionality would be welcomed on a few key issues.

We would refer the EBA also to our response to EBA/CP/2025/16 in which we request clarification with respect to a number of key concepts. Such concepts are also pivotal to these reporting requirements.

AFME and its members urge the EBA to streamline and clarify the reporting requirements, ensuring that they are aligned with the booking requirements, targeted, proportionate, and operationally feasible. Specifically, we would request enhanced guidance, a more focused scope, and a realistic implementation timeline in order to support effective supervision while minimising unnecessary and disproportionate burden and legal uncertainty for firms. We would also welcome flexibility to align with home state reporting periods and dates and accounting frameworks.

AFME remains available to discuss these concerns further and to support the development of a robust and practical reporting framework.

Response to Question 1: Are the scope and level of application of the reporting requirements and the content of all the templates and the instructions clear and appropriate?

Unnecessary duplication in head undertaking reports

AFME and its members are concerned by the potential requirement for multiple head undertaking (HU) reports. Such a requirement seems excessive, with overlapping and duplicative information requirements leading to inefficiencies both for reporting entities and national competent authorities.

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Whilst the definition of the term “head undertaking” contemplates the inclusion of the ultimate and intermediate holding companies, if any, “as applicable,” Article 48k is clear in establishing the expectation that Article 48(k)(2)(a) applies on an ultimate head undertaking basis whereas Article 48(k)(2)(b) – (f) relate to obligations applicable to the direct head undertaking and as such reporting should relate to the direct head undertaking.

The instructions should more clearly state which is the singular relevant head undertaking for each report (which it already specifies for two of the Annex II reports). It is our view that the relevant head undertaking should be the direct head undertaking (unless a competent authority specifically determines that it is necessary to have more than one report from a particular TCB it supervises).

There is a reference to the relevant head undertaking in paragraph 1.3 of the instructions but for implementation, firms need to clearly understand how to collect and consolidate the relevant information. For most, if not all of the remaining reports where there is no specific head undertaking stipulated, it is not currently clear how multiple reports would add additional clarity or provide additional information (e.g. H02.00 already requires a breakdown of the EEA subsidiaries).

If required, additional information should be provided by way of a new line item on the existing report, rather than as a separate report (e.g. summary of the different recovery plans (H06.00) for the ultimate parent, intermediate parent and the head undertaking of the third country branch (TCB) could be included in the same report).

Equally, to the extent that a third country banking group has presence in the EU with more than one TCB, as we suggest in our response to EBA/CP/2025/15, the functioning of colleges should be designed to avoid duplicative reporting and to facilitate effective information sharing between competent authorities. Designating one TCB as the reporting TCB for a particular banking group would reduce the burden on TCBs and their host authorities and engender appropriate cooperation, coordination and information sharing amongst the relevant national competent authorities. As Mr Luis de Guindos remarked on his opening address at the SRM 10th anniversary conference, ‘reporting overlaps may, to some extent, be unavoidable, but we can reduce the burden by establishing an integrated reporting system that will be accessible to the relevant EU authorities’. It would also align with the ‘report once’ principle embodied in the Better Data Sharing Regulation (Regulation (EU) 2025/2088).

Overly broad scope of EEA entity reporting

The proposed scope for reporting on EEA entities within the HU reports raises additional concerns regarding its breadth and the potential significant reporting burden.

Template H 02.00 requests "Information on the subsidiaries and other third-country branches of the third-country group in the Union." While the EBA aims to ensure a comprehensive overview of the activities of third-country groups within the Union and enable the effective supervision of TCBs, requiring information on all EEA subsidiaries and branches of the third-country group, irrespective of their nature (financial or non-financial), is overly extensive.

For large reporting groups, this could encompass a substantial number of entities, many of which may not be financial entities and thus fall outside the direct prudential supervisory remit of banking regulators. The EBA's objective is to specify information necessary for effective supervision of TCBs' compliance with applicable prudential and supervisory requirements. The current requirements risk polluting or at the very least adding unnecessary noise to the information required for those purposes.

We recommend that the scope of entities included in these reports, particularly for templates like H 02.00, should be more precisely aligned with the objectives of prudential supervision. The reporting should primarily focus on those entities that would typically be included when considering a prudential consolidation boundary for a financial group and, in the case of template H 05.00 be further confined

to those non-EEA entities subject to Article 21(c) of Directive 2013/36/EU. This would better align with the general principle of proportionality in EU law.

The EBA's final draft Regulatory Technical Standards (RTS) on prudential consolidation specify that entities to be included in the scope of prudential consolidation are, in particular, institutions, financial institutions, and ancillary services undertakings. Aligning these requirements to that approach would better ensure that the collected data is relevant to assessing the prudential risks and interconnectedness of the third-country group's financial activities within the EU.

Excessive scope and complexity in reverse solicitation reporting

The reporting template for services provided on the basis of reverse solicitation (H04.00) is also too expansive and introduces requirements which will be quite impractical by requiring reverse solicitation to be recorded by all entities within scope of the ultimate head undertaking.

For many international banking groups, the ultimate parent undertaking is a financial holding company encompassing many other non-banking entities, which may be covered by different regulatory frameworks. It would not be practical to require these entities to record information relating to reverse solicitation, where a consistent definition cannot be applied.

The statement in paragraph 11 of the consultation paper that “for the purpose of reporting the services provided by the HU to clients established or situated in the Union on the basis of reverse solicitation of services in accordance with Article 21c of the CRD, the TCG shall be assessed at the level of the ultimate head undertaking of that group” is not clear in its meaning and should be revised. The reference to “TCG” in the context of Article 48k(2)(f) is not clear because the requirement to report services on the basis of reverse solicitation in Article 48k(2)(f) does not apply to services rendered by the entire third country group but applies to the head undertaking only, as is clear from the wording in Article 48k(2)(f) and reporting template H04.00.

The reporting obligation should be restricted to services provided by the direct HU that are directly linked to the activities of the TCB established in a specific EEA country. Extending the scope to other group entities, or aggregating services provided by the HU to clients in other EEA countries, creates an undue reporting burden and risks the collection of redundant or irrelevant data. Furthermore, the determination of "associated net revenues" is complicated by internal transfer pricing policies, making it difficult for firms to extract and report the requested data accurately and consistently.

Furthermore, the EBA should clarify in the ITS that the requirement to report on head undertaking reverse solicitation applies for transactions entered into after the entry into force of Article 21c and does not apply retrospectively, as further discussed in our response to question 21.

Excessively broad input requirements

Certain of the qualitative returns require inputs that are very broad. AFME’s members are concerned that this does not fit the model of a report which is submitted through a DPM / XBRL / validation model process. The EBA should consider where this data is already reported through Head Undertaking reporting and reduce complexity/duplication accordingly.

We would also request the EBA to consider whether other ongoing reporting obligations for the purposes of intermediate parent undertaking supervision will cease and be replaced by the requirement imposed by this technical standard.

We would also observe that the scope and extent of these reporting requirements, in particular the requirement to report on reverse solicitation, exceed those applicable to EEA subsidiaries of third country groups. The costs of compliance with these requirements for TCBs risks driving TCBs out of

the EEA lending markets and in so doing potentially reduce liquidity in the market, access to credit for EEA borrowers and drive up costs of borrowing.

Impractical data request

Template E 01.01 specifies that TCBs should report on assets and liabilities originated 'without any continuing involvement'. This requirement could present many practical difficulties for TCBs because TCBs would not necessarily have ownership over this data.

Conclusion: Need for streamlined, proportionate and targeted requirements

In conclusion, the current scope and level of application of the reporting requirements, as well as the content and instructions for the templates, are not sufficiently clear or appropriate. In particular:

- The requirements should be streamlined to eliminate duplicative reporting.
- The scope of entities and activities included should be limited to those relevant for the prudential supervision of the relevant TCB.
- The instructions should provide greater clarity on the relevant HU and level of consolidation of information required in relation to each required template.
- The EBA should consider where data is already reported through Head Undertaking reporting and reduce complexity/duplication for TCBs accordingly.
- The data requested has to be practical.

This will ensure a more effective, proportionate, manageable and meaningful reporting regime.

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?

Article 48h(4)(b) of CRD VI states that the EBA shall develop regulatory technical standards to specify 'the methodology to identify and keep a record of off-balance-sheet items and of the assets and liabilities originated by the third-country branch and booked or held remotely in other branches or subsidiaries of the same group on behalf of or for the benefit of the originating third-country branch.'

Our understanding of Article 48h(4)(b) is that this is intended to cover transactions booked by the TCB and those booked or held in other group entities (TCBs or subsidiaries) in which the TCB has been significantly involved in setting up. However, template E 01.01 and the draft RTS on booking arrangements both imply that this requirement to report applies to transactions with all other entities, such as non-group entities and third parties. We believe that these requirements go beyond the intention of the Level 1 and therefore both the RTS on booking arrangements and the associated templates in these ITS should be amended to ensure that the requirement only covers transfers and sales to other group entities (see also our response to EBA/CP/2025/16).

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

AFME and its members are concerned that the requirements prescribed by the ITS are disproportionate to the purpose of the underlying regulation. As discussed in our response to question 1, the current scope of the information required far exceeds that necessary for the judicious prudential supervision of the reporting TCB.

Question 4: Do the respondents consider the transition period and frequency of the first year reporting clear and feasible?

Lack of clarity on transition period, first remittance date requirements and first year reporting frequency

AFME's members are concerned to better understand the expectations around the first remittance date and first year reporting requirements, and to ensure that they are workable and able to result in reliable data sets.

It is currently not clear (i) which reports will be due for the first annual reference period; (ii) which reports will be subject to a later first reporting period, as referenced in Recital 7 and (iii) what the relevant reference periods in either case should be.

The consultation paper suggests a one-year implementation period. It is not clear, however, whether this one-year period refers to the calendar year 2026, after publication of the final report and submission to the European Commission, or whether it runs from the application of the ITS (expected to be December 2026) until December 2027. This then triggers further uncertainty as to the first annual reference period and whether that period should be 1 January 2026 – 31 December 2026 for reporting on 11 February 2027 or 1 January 2027 – 31 December 2027 with a first reporting date in 2028. The consultation and accompanying press release suggests the former but given that the final report is not expected until January 2026 and adoption by the European Commission is anticipated in June 2026, this poses practical challenges even with an implementation period.

It is also not clear how the implementation period also affects the remittance dates with respect to the monthly, quarterly and semi-annual reports due in respect of the reference date of 31 December 2026.

In terms of reports for which the EBA anticipates a delay, Recital 7 specifically references Articles 48e, 48f and 48h on the basis that they do not apply until 11 January 2027. We assume that data points which relate to other obligations that do not apply until 11 January 2027 are also not expected on any remittance date before a full reference period after their application to allow for a meaningful collation of the relevant data. By way of example, H04.00 on reverse solicitation relates to Article 21c which also does not come into effect until 11 January 2027 but is not included in the list of reports with the later first remittance date.

Unrealistic implementation timelines and resource constraints

Given the complexity and cost of setting up the Annex II head undertaking reporting in particular, firms should be given sufficient time to properly prepare for and implement those reporting requirements.

Understanding the intention behind the implementation period is also of concern to our members in light of these substantial new data collection requirements and need to develop new reporting frameworks.

Should the first annual reference period be set for the 2026 calendar year, firms would have insufficient time to adequately prepare. Technology budgets for 2026 will have closed by the time the final report is published, and necessary IT solutions will not be ready in time. Any technology builds required will need to go into 2027 budgets and may not be ready for use until later in that year.

Equally, firms will want to ensure that the systems, processes and operations they build to comply with the ITS are based on final requirements. Until such time as the ITS are published in the Official Journal and the reporting templates finalised, it is unjust to expect firms to commence implementation builds. To this end, we note in the EBA's 2026 Work Programme reference to the ITS on the minimum common reporting of TCBs but note also that they do not seem to be listed in the 2026 deliverables.

Furthermore, in the absence of sufficient time to develop robust operations to collect and report these new requirements, tactical, manual solutions will introduce additional operational risk into the process which could be mitigated by giving firms more time to prepare and to implement.

Imposing reporting requirements on the current timeframe is unworkable in practice and will result in low-quality, incomplete and unreliable data distracting both competent authorities and the TCB they supervise from applying their resources more productively on a proper implementation of tested and reliable systems.

Inefficiency and operational risk of a staggered reporting regime

The proposal for a transitional implementation period effectively mandates a partial "mini regime" in 2026, followed by full implementation in 2027. Such a proposal is inefficient and introduces unnecessary operational risk. This approach would result in duplicative implementation costs, require staff training and IT system testing on two separate occasions, and necessitate two distinct reporting "go-live" exercises.

A staggered switch on of requirements would also mean competent authorities receive only partial information, not aligned with the full framework. To avoid fragmented or misleading submissions, reporting should only start once all legal requirements are live.

A more effective and efficient solution would be to launch the full set of requirements in 2027, using 2026 as a dry run or pilot year with voluntary submissions to facilitate feedback and testing. Since supervisory convergence and comparability would only begin in 2027 in any event, starting reporting in 2027 ensures that the data set is complete, comparable, and better aligned with the CRD VI package.

Deferring the first reporting to 2027 would also provide legal certainty, ensure a level playing field, and promote data consistency across Member States.

Conclusion: The need for a revised, feasible and reliable approach

In summary, the current approach to the transition period and first year reporting frequency lacks the necessary clarity and feasibility, and would introduce unnecessary cost, complexity, operational risk, and legal uncertainty. A revised approach, as outlined above, would better support effective, consistent, and efficient implementation across the industry. It would also ensure the regulatory objective of the TCB package is actually achieved.

Question 5: Cost of compliance with the reporting requirements: Is or are there any element(s) of this proposal for new and amended reporting requirements that you expect to trigger a particularly high, or in your view disproportionate, effort or cost of compliance? If yes, please:
- **specify which element(s) of the proposal trigger(s) that particularly high cost of compliance,**
- **explain the nature/source of the cost (i.e. explain what makes it costly to comply with this particular element of the proposal) and specify whether the cost arises as part of the implementation, or as part of the on-going compliance with the reporting requirements,**
- **offer suggestions on alternative ways to achieve the same/a similar result with lower cost of compliance for you.**

Yes, there are several elements of the proposal that are expected to trigger particularly high and disproportionate costs of compliance.

Annex II head undertaking reporting

The operational investment necessary to implement the Annex II head undertaking reporting framework is expected to be especially costly. Firms will need to develop new systems and processes to collect, consolidate, and report the required data, much of which is not currently available or tracked in the required format.

Insufficient build times and transitional regimes add additional burdens

A discussed in response to question 3 above, technology budgets for 2026 will have closed by the time the final report is published, and necessary IT solutions are unlikely to be operational to collate 2026 data. This will likely necessitate manual solutions, which introduce additional operational risk and compliance costs.

Reverse solicitation reporting

The requirement to report on services provided on the basis of reverse solicitation, including the calculation of "associated net revenues," is particularly burdensome. The determination of net revenues is complicated by internal transfer pricing policies, making it difficult to extract and report the requested data accurately and consistently. This will require significant manual intervention and may result in inconsistent reporting across institutions.

Furthermore, it is important that the final reporting instructions are clear on the definition of 'head undertaking'. As this requirement is triggered by the presence of a TCB in the EU, we believe that 'head undertaking' for the purpose of reverse solicitation should be intended to capture only the 'immediate head undertaking'.

Class 2 eligibility requirements and timing

Article 48a outlines the criteria which member states must apply to classify TCBs. Firms classified as class 2 are subject to proportionality with respect to certain of the requirements, including reporting.

Classification as class 2 is subject to certain quantitative asset value and activities thresholds. The host state must also not appear on the list of third countries with strategic deficiencies in its anti-money laundering and counter terrorist financing regime in accordance with the EU's anti money laundering directive (Directive 2015/849). It is also subject to an equivalence decision by the European Commission concerning the TCB's home state. Article 48(b)(5) provides that a national competent authority shall classify the TCB as class 1 pending the European Commission's adoption of an equivalence decision.

This uncertainty and requirement for a TCB to be classified as class 1 pending a Commission decision, with the consequential implementation builds and ongoing compliance costs is disproportionate. Where a TCB meets all remaining criteria to classify as class 2, it should be classified as a class 2 pending the Commission's decision. If the Commission's subsequent decision is not to adopt the required decision, the TCB should be considered as class 1 from four months after the Commission's decision not to adopt the equivalence decision, in line with Article 48(a)(3).]

Conclusion

We note the EBA's assessment that costs associated with implementation of these ITS are largely absorbed by the existing compliance requirements under Article 48 of the CRD. We do not consider that this accounts accurately for the substantial uplift in the operational build and additional processes necessary to capture the granular new data requests in relation to assets originated by the TCB or information on a TCB's head undertaking(s).

In our view, the current proposals lead to disproportionate implementation and ongoing costs to the extent that they:

- Go beyond the requirements specified in the Directive.
- Require TCBs to submit multiple head undertaking reports many of which contain overlapping and duplicative information.
- Require the TCB to report on all EEA subsidiaries and branches, including non-financial entities.
- Seem to introduce a partial "mini regime" in 2026, followed by full implementation in 2027. As discussed in our response to question 4, this approach would require staff training and IT system testing to be conducted twice and would necessitate two separate reporting "go-live" exercises, further increasing both implementation and operational costs.
- Require small and non-complex TCBs to plan and build for compliance with the requirements applicable to class 1 firms pending a decision by the European Commission under Article 48b(2).

Suggestions for reducing the cost of compliance

AFME and its members understand the importance of clean and accurate data necessary to allow the effective supervision of TCBs and an understanding of any risk that they pose to the financial markets in the relevant member state. It is our view that this can be done more effectively and efficiently through the filer of what is necessary to prudentially regulate the TCB if the requirements:

- Limit the scope of HU reporting to the direct HU (except for reporting under Article 48(k)(2)(a)), unless a competent authority specifically requires more than one report.
- Restrict the scope of EEA entities included in HU reports to those within the prudential consolidation boundary, in line with the EBA's own RTS on prudential consolidation.
- Launch the full set of reporting requirements in 2027, using 2026 as a dry run or pilot year with voluntary submissions to allow for feedback and testing, rather than implementing a staggered approach.
- Provide greater clarity in the instructions regarding the relevant HU for each report and the consolidation of information, to avoid duplicative reporting and reduce the compliance burden.
- For reverse solicitation reporting, provide more detailed guidance on the definition of "associated net revenues" and consider limiting the reporting obligation to services directly linked to the activities of the TCB in the relevant EEA country.
- Apply the reporting requirements applicable to class 2 TCBs to small and non-complex TCBs pending a European Commission decision under Article 48b(2).

As further discussed above, these measures would help to streamline the reporting requirements, reduce unnecessary duplication, and ensure that the compliance burden is proportionate to the supervisory objectives.

Question 6: In particular, are there challenges foreseen in obtaining detailed data on the head undertaking or other group entities, especially for class 2 TCBs? Would further proportionality be helpful, especially regarding remittance date? How could it be implemented?

As discussed in our responses to previous questions, there are substantial challenges associated with obtaining detailed data on head undertakings or other group entities.

The expectation that firms will be able to collect and report HU data by Q4 2026 is unrealistic. The required data is not currently available in the necessary format, and the proposed implementation timelines do not provide sufficient opportunity for firms to develop, test, and deploy the requisite IT solutions.

The complexity and cost of establishing the Annex II HU reporting framework—including data collection and the creation of last-mile reporting infrastructure—are especially burdensome for class 2 TCBs, which typically have more limited resources and less direct access to group-wide data, but will pose a challenge also for class 1 TCBs.

Need for greater proportionality in reporting requirements

Further proportionality in the reporting requirements is essential, particularly with respect to the remittance date for both class 1 and class 2 TCBs.

The requirements should allow for flexibility on the references dates and remittance dates to account for the availability of data, e.g. with respect to quarterly reporting, the current remittance dates under Article 2 are earlier than the filing dates per U.S. local reporting requirements, so data may not be readily available at the remittance date for a U.S. bank and may correspond to different (though comparable) reference periods.

The reporting framework should be better tailored to reflect the size, complexity, and risk profile of the TCB. For class 2 TCBs, this means less frequent or less granular reporting obligations. Whilst we appreciate that the current proposals offer a degree of proportionality with the core + reporting approach and less frequent reporting timelines, the ask is still very onerous for class 2 TCBs.

Further extending the remittance date for class 2 TCBs would allow additional time for data collection and system implementation, thereby mitigating operational risk and ensuring the submission of high-quality data. Equally, the granularity of reporting requirements for class 2 TCBs would seem disproportionate if applied on a blanket basis. By way of example, for TCBs whose sole purpose is to access ECB funding, their reporting requirements should be calibrated more proportionately.

Practical implementation of proportionality

Proportionality can be effectively implemented through several targeted measures:

- Allowing class 2 TCBs to submit all reports on an annual basis, rather than more frequently, at least during the initial years of implementation.
- Providing a longer implementation period for class 2 TCBs, with the first reporting date set at least one year after the finalisation and publication of the ITS.
- Limiting the scope of HU and group entity data required from class 2 TCBs to only those elements essential for effective prudential supervision, thereby reducing the reporting burden.
- Reduce granularity or scope of reporting proportionate to the size, activities and level of risk of the class 2 TCB. In particular, for TCBs whose sole purpose is to access ECB funding, their reporting requirements should be calibrated more proportionately.

TCB classification dependent on equivalence assessments

As discussed in response to question 5 above, TCBs that meet the criteria for classification as a class 2 TCB, should not be classified as class 1 where the European Commission has not yet decided whether its home state jurisdiction meets the qualifying criteria set out in Article 48b. Otherwise, such TCBs would be required to build to meet the requirements for class 1 firms pending such assessment, an unnecessarily excessive and wasteful use of operational resources. This approach would be contrary to the general principle of proportionality in EU law, which mandates that measures should not exceed what is necessary to achieve their legitimate objectives.

Conclusion

Adopting these proportionality measures will ensure that the reporting framework is both achievable and proportionate, particularly for class 2 TCBs, and avoids unnecessary operational and financial strain on institutions.

Question 7: Article 48h(1) of the CRD (as further developed in the RTS on booking arrangements) requires the maintenance of a registry book that allows to track and keep a comprehensive and precise record of all the assets and liabilities booked or originated. Have you foreseen that, according to the proposed breakdown in columns 0050 and 0060 of template E 01.01, such a registry book should also allow you to distinguish between the originated amounts where servicing (or other type of continuing involvement) is maintained and the originated amounts where no continuing involvement is maintained at all?

We do not think it necessary for the registry book to distinguish between originated amounts where servicing or other continuing involvement is maintained and those where no such involvement exists in order to support the proposed breakdown in columns 0050 and 0060 of template E 01.01. The level 1 text does not require this and to do so would exceed the mandate.

In addition, we would like to raise a number of other, more general concerns with the requirements to report assets and liabilities originated.

As discussed in our response to EBA/CP/2025/16, we are concerned that the distinction between the concepts of “assets and liabilities booked” and “assets and liabilities originated”, for the purpose of the booking arrangement requirements, lacks clarity in a number of significant areas. These concerns also flow into the reporting requirements.

A number of additional questions stem from the lack of necessary clarity in the accounting framework and reporting instructions.

Reporting basis: point in time or cumulative aggregate?

TCBs are required to report the financial and regulatory information referred to in Annex I in accordance with the IFRS or with national accounting frameworks, referring to the period from the first day of the accounting year to the reference date.

The templates requiring quantitative data require reports on balance sheet items (assets and liabilities) and income statement items (e.g., net revenues, interest income, interest expenses).

It is not clear whether these templates require reporting of the outstanding stock of balance sheet items as of the reference date, or a cumulative aggregate of new items originated during the period. Ambiguity in this area may lead to inconsistent reporting practices and undermine the comparability and utility of the data collected.

Challenges in identifying historical and ongoing involvement

We wish to further highlight that TCBs may encounter significant challenges in completing certain templates, especially if they are required to identify the outstanding stock of assets and liabilities originated prior to the commencement of the reporting obligations.

Additionally, determining whether the TCB maintains "servicing or other type of continuing involvement" in relation to the back book of assets or liabilities adds a layer of complexity, particularly for legacy positions and transferred assets.

We would request that these data capture and reporting requirements apply only to assets and liabilities originated after the application date of the obligations, in order to enable the necessary builds to capture and track this information.

Conclusion and request for clarification

In summary, we have substantive concerns regarding the practical challenges of distinguishing between originated amounts with and without continuing involvement, particularly with respect to the back book and would also appreciate clarification on whether the registry book is also expected to support this level of detail, as implied by the template breakdown.

Question 8: Do you have any specific comment regarding templates E 01.01/E 01.02 and their instructions?

Please see our response to question 2 and to question 7 above. We would welcome greater clarity in the instructions for templates E 01.01 and E 01.02, particularly regarding the reporting basis (point in time or cumulative aggregate).

Equally, the requirement to report on assets and liabilities originated and booked in template E01.01 should just apply to intragroup transfers – to mandate this for all transfers/sales to third parties would go beyond the intention in Article 48h. Please see also our response on this in relation to EBA/CP/2025/16.

Question 9: Do you have any specific comment regarding template E 02.00 and its instructions?

No response

Question 10: Do you have any specific comment regarding templates E 03.01/E 03.02 and their instructions?

No response

Question 11: Do you have any specific comment regarding templates E 04.01/E 04.02 and their instructions?

No response

Question 12: Do you have any specific comment regarding templates E 05.01/E 05.02 and their instructions?

No response

Question 13: Do you have any specific comment regarding templates E 06.01/E 06.02 and their instructions?

No response

Question 14: Do you have any specific comment regarding templates E 07.01/E 07.02 and their instructions?

Template 07.01 requires certain balances to be reported on an annual basis, while other information is required to be reported on a quarterly basis. We would welcome further clarity from the EBA in relation to its expectations in this regard, for example, are firms required to resubmit the previous annual data each time the quarterly data is submitted?

Question 15: Do you have any specific comment regarding templates E 08.01/E 08.02 and their instructions?

No response

Question 16: Do you have any specific comment regarding templates E 09.01/E 09.02 and their instructions?

No response

Question 17: Do you have any specific comment regarding template E 10.00 and its instructions?

No response

Question 18: Do you have any specific comment regarding template H 01.00 and its instructions?

The reporting instructions do not state whether the Generally Accepted Accounting Principles (GAAP) of the Ultimate HU can be used as the basis of preparation in producing the underlying EEA Legal Entity assets and liabilities requested.

We would be grateful for clarification that reference to "or with national accounting frameworks" in Article 1(2) of the draft ITS would allow an overseas bank group to apply uniform reporting standards to their branches and subsidiaries across the board, i.e. U.S. GAAP for a U.S. bank's subsidiaries, regardless of their location. Accordingly, "national accounting frameworks" should be clarified not to necessarily mean domestic framework at the location of the branch or subsidiary.

Question 19: Do you have any specific comment regarding template H 02.00 and its instructions?

As noted in our response to question 1, we have significant concern regarding the scope of entities required to be reported in template H 02.00. The obligation to provide data on all EEA subsidiaries and branches, regardless of whether they are financial or non-financial entities, is viewed as excessively broad. This requirement could impose a substantial reporting burden, particularly for large groups with numerous entities, many of which may not fall under the direct prudential supervisory remit of banking regulators. The inclusion of non-financial entities is not aligned with the core objectives of prudential supervision and risks overwhelming both reporting institutions and supervisory authorities with irrelevant information.

It is strongly recommended that the scope of entities included in these reports be limited to those entities that would typically be included within the prudential consolidation boundary for a financial group. This approach is consistent with the EBA's own final draft Regulatory Technical Standards (RTS) on prudential consolidation, which specifies that institutions, financial institutions, and ancillary services undertakings are to be included. Focusing on these entities ensures that the data collected is directly relevant for assessing prudential risks and the interconnectedness of the third-country group's financial activities within the EU.

Question 20: Do you have any specific comment regarding templates H 03.01/H 03.02 and their instructions?

Please see our response to question 1 in relation to unnecessary duplication in head undertaking reports and the appropriate 'applicable' head undertaking and to question 6 in relation to remittance date flexibility.

Additionally, just as Article 1(3) of the ITS anticipates adjusted reporting reference dates where TCBs are permitted by national laws to report their financial and regulatory information based on their accounting year-end, which deviates from the calendar year-end, where the relevant HU is permitted to submit their regulatory metrics based on fiscal rather than calendar quarters, then the metrics supplied should be reported as of the same reference period end as required by home supervisors.

Question 21: Do you have any specific comment regarding template H 04.00 and its instructions

Please see our response to question 7 above and the discussion around whether the reporting values required are point in time or cumulative aggregate numbers.

Scope of application

Please see our response to question 1. The scope of template H 04.00 is excessively broad and does not align with the practical realities of international banking operations.

The reporting instructions state this template must be completed for the ultimate head undertaking. In some cases, the ultimate head undertaking may just be a holding company which does not conduct any relevant business.

It is also not clear whether the EBA expects the report is to be prepared on a consolidated basis for all non-EU undertakings in the group even though this would go beyond the mandate under CRD VI (contrast the provisions of Article 21c(2) which do envisage that Member States can require information to monitor the services provided at the own exclusive initiative of the client or counterparty established or situated in their territory where such services are provided by undertakings established in third countries that are part of the same group).

The reporting obligation should be limited to services provided by the immediate head undertaking that are directly linked to the activities of the TCB established in the specific EEA country. Extending the scope to include other entities "up the chain" within the broader group or to aggregate services provided by the HU to clients in other EEA countries where the HU might have additional branches creates an undue reporting burden and potential for redundant or irrelevant data.

The current framework designates the supervised TCB as the reporting entity. Therefore, if the Head Undertaking has only one branch in country X, the reporting template should logically focus solely on services under reverse solicitation provided to clients in country X that are directly facilitated or influenced by the presence and activities of that specific TCB. This approach ensures that the reported data is relevant to the supervisory oversight of the TCB's activities and its immediate relationship with the HU's reverse solicitation efforts in that particular market, without imposing disproportionate requirements that extend beyond the direct supervisory remit of the TCB.

CRDVI does not mandate data per Member State

The Directive does not require or authorise the reporting of exposures for the top two Member States, and such information will only demonstrate that the largest EU financial economies are the recipients of reverse solicitation-based services, which serves no meaningful purpose. The entries covering 1st and 2nd EEA Member State should therefore be deleted.

Challenges in calculating "associated net revenues"

The scope of the proposed template, which seeks to capture "associated net revenues" as profit and loss (P&L) related to services provided by the HU on the basis of reverse solicitation, is far-reaching.

While EBA's objective is to collect key quantitative data, including net revenues, assets, liabilities, and off-balance sheet items for these services, the practical implementation presents significant challenges.

The determination of "associated net revenues" can be heavily influenced by internal transfer pricing policies and practices within a banking group. These policies, designed for internal cost and profit allocation, may not align directly with the granular, attributable net revenue figures the EBA seeks for specific reverse solicitation activities. This can make it exceptionally difficult for banks to accurately and consistently extract and report the requested data without significant manual intervention or the risk of misrepresentation, potentially leading to inconsistent reporting across institutions with different internal accounting methodologies.

To address these challenges, it is essential that the EBA provide more detailed guidance on the precise definition of "associated net revenues" in the context of reverse solicitation. Such guidance should take into account the complexities of international banking operations and the diversity of transfer pricing frameworks. Enhanced clarity would help mitigate the difficulties banks face in producing accurate and comparable data.

Application on a forward basis only

Similar to our concerns expressed in our response to question 7 about the requirement to collate data relating to activities before the reporting obligations apply, it is not clear in relation to template H 04.00 whether TCBs are required to provide information in relation to assets or liabilities originated on the basis of reverse solicitation during periods before Article 21c is implemented by Member States (scheduled for 11 January 2027). It may be difficult for TCBs to identify the stock of head undertaking assets, liabilities or off-balance sheet items derived from services provided on the basis of reverse solicitation in the past. This is linked to the question of whether the template requires a report of the outstanding stock of balance sheet items originated on the basis of reverse solicitation or a cumulative, aggregate of the flow of new items originated on the basis of reverse solicitation in the reporting period.

Conclusion: Call for a more targeted and practical approach

In summary, we strongly advocate for a more targeted scope for template H 04.00, focused on the immediate HU and the relevant TCB.

Additionally, clearer guidance on the calculation and reporting of net revenues associated with reverse solicitation and whether values should be reported on a point in time basis is necessary to ensure consistency, accuracy, and proportionality in reporting. The reporting obligation must also only relate to transactions entered into after the application of Article 21(c) in the relevant Member State.

Question 22: Do you have any specific comment regarding template H 05.00 and its instructions?

Legal barriers to disclosure of supervisory information

Some firms, particularly those subject to US laws, face legal prohibitions on the disclosure of confidential supervisory information. As a result, these firms will be unable to submit the information requested in template H 05.00 without breaching their domestic legal obligations.

It is essential that the reporting instructions and templates are updated to accommodate these legal constraints. TCBs should be permitted to engage in dialogue with the relevant national competent authority to explain the nature of the legal impediment and the framework should be amended to anticipate this. TCBS subject to such legal constraints should be allowed to submit a null report or information that clearly indicates the existence of a legal barrier to disclosure.

Alternative mechanisms for information exchange

We recommend that, where legal restrictions prevent direct disclosure, EU regulators should seek the relevant information through existing Memoranda of Understanding (MOUs) with the relevant non-EU supervisory authorities.

Relevant applicable head undertaking

Please see our response to question 1 in relation to the need for certainty as to the appropriate 'applicable' head undertaking and to avoid unnecessary duplication in head undertaking reports.

Question 23: Do you have any specific comment regarding template H 06.00 and its instructions?

Efficient consolidation of recovery plan information

Please see our response to question 1 in relation to the need for certainty as to the applicable head undertaking and to avoid unnecessary duplication in head undertaking reports.

Furthermore, sharing a HU's recovery plan may be subject to confidentiality constraints and EU supervisors should first request this information from the home state regulator directly.

We also note that class 1 TCBs are required to submit the Recovery Plan information requested in H 06.00 semi-annually, whereas class 2 TCBs are required to submit annually. We would request that the reporting frequency is amended to annual submission for both class 1 and class 2 TCBs, to align with BRRD and ECB Recovery Planning requirements for EU banks, as well as standards globally.

Question 24: Do you have any specific comment regarding template H 07.00 and its instructions?

Please see our response to question 1 in relation to unnecessary duplication in head undertaking reports and the appropriate 'applicable' head undertaking.

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