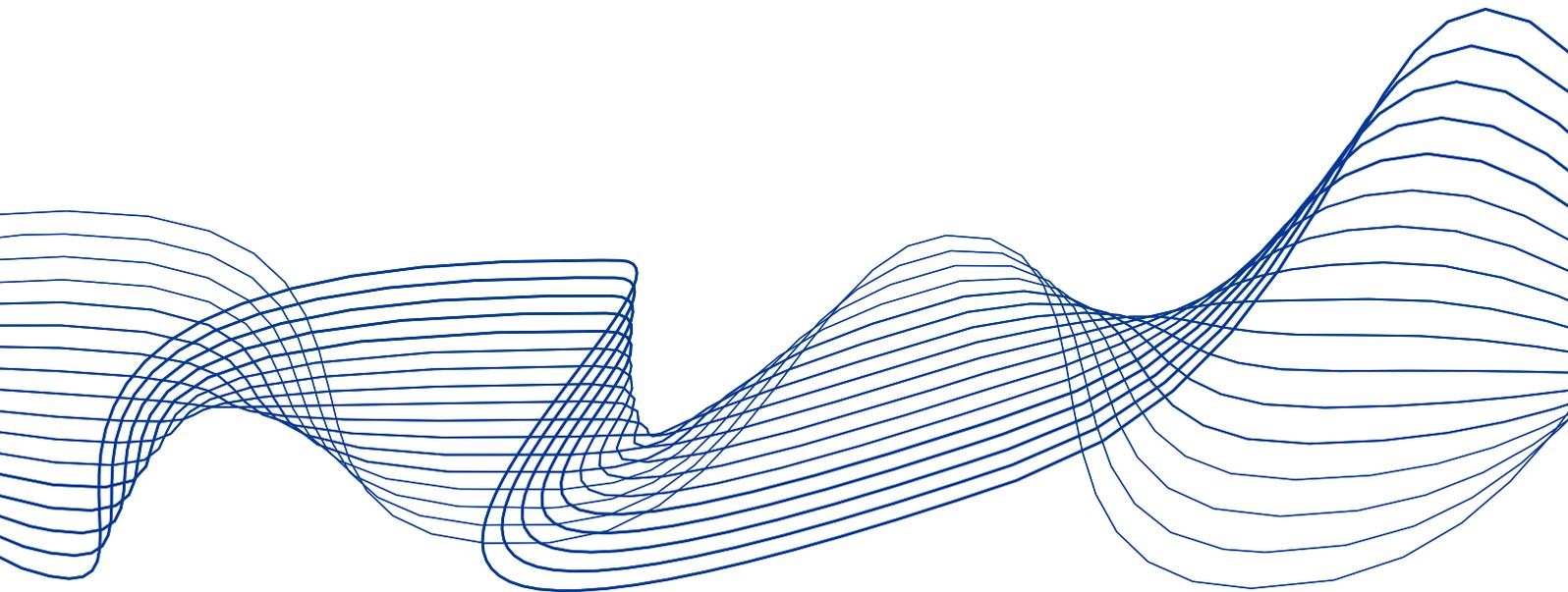


**Macroprudential policy  
implications of foreign  
branches relevant for  
financial stability**

**December 2019**



**ESRB**  
European Systemic Risk Board  
European System of Financial Supervision

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## Executive summary

**The provision of financial services across borders is an important feature of ongoing financial integration in the EU, although the role of branches and subsidiaries of foreign institutions follows very different patterns across Member States.** While extensive provision of cross-border financial services via foreign branches is not yet a widespread EU phenomenon, information on these branches is important from a financial stability perspective in a number of EU Member States. This may be the case in particular where branches of credit institutions having their head office in another Member State or in a third country (foreign branches) are of significant importance to the local financial system, or even systemically important – owing, for example, to their market share, size, interconnectedness or provision of critical services. The role of foreign branches in financial intermediation may gradually increase in parallel with the process of financial integration and further progress in the banking union.

**To be able to conduct a comprehensive analysis of systemic risk, including the effective identification and assessment of systemic vulnerabilities, authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks need accurate and timely information on financial institutions operating within their jurisdiction.** In this regard, it is important to have appropriate mechanisms in place to ensure that relevant authorities in host jurisdictions are able to obtain necessary information on foreign branches, too. While Union law does not preclude or create obstacles to the exchange of information on foreign branches between relevant authorities, it does not establish a general framework for an efficient exchange of information either. The obligation of professional secrecy should not preclude the exchange of information between competent authorities and authorities or bodies charged with responsibility for maintaining the stability of the financial system in Member States through the use of macroprudential rules. However, under current Union law there is only a framework for information exchange between competent authorities – and no established framework for the efficient exchange of information among all relevant authorities, i.e. authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks.

**In addition, the information currently collected on foreign branches seems limited, and it is not clear whether any authority can collect further information from branches for macroprudential purposes.** Central banks collect some information on branches for monetary purposes, while competent authorities generally collect only a limited set of data on foreign branches for supervisory purposes. There is legal uncertainty as to whether the data collection powers of competent authorities under the CRD IV could also be used to collect information for the benefit of macroprudential or designated authorities. It is therefore necessary to achieve legal certainty in this regard.

**Effective mechanisms for sharing information on foreign branches on a need to know basis are especially warranted in an integrated financial market.** A lack or insufficiency of information on branches, in particular significant ones, might have an impact on the effectiveness of macroprudential policy in host Member States. Although experience with voluntary cooperation and information-sharing between relevant authorities has been positive so far, the European Systemic Risk Board (ESRB) deems it important to ensure that it continues in the future and for other



potential cases. Furthermore, a coordinated approach at the EU level might reduce the complexity and costs of information-sharing arrangements for macroprudential purposes.

**In the Nordic-Baltic region, additional arrangements have been established to ensure a proper flow of information between authorities.** In a number of Nordic and Baltic countries, some foreign branches are major, if not dominant, players in the retail market. In addition, the region has been characterised for years by close cooperation and information-sharing among relevant authorities. The Nordic-Baltic Macroprudential Forum regularly discusses financial stability risks in the region and in specific countries, as well as macroprudential measures and their reciprocation. In December 2016, the competent authorities of Denmark, Finland, Norway and Sweden and the ECB signed a Memorandum of Understanding (MoU) with the objective of stepping up the collaboration between the home and host competent authorities. In June 2017, the competent authorities of Estonia, Iceland, Latvia and Lithuania also signed the MoU. This cooperation can serve as a good example for other jurisdictions.



# 1 Introduction

**The ultimate objective of macroprudential policy is to contribute to the safeguard of the stability of the financial system as a whole**, including by strengthening the resilience of the financial system and decreasing the build-up of systemic risks.<sup>1</sup> Macroprudential policy is conducted at the national and banking union levels, with the ESRB acting inter alia as a coordinating and expert body and information hub at the European level.

**Financial stability or macroprudential policy tasks are entrusted at national level to macroprudential authorities<sup>2</sup> and designated authorities<sup>3</sup>, which in some Member States may be competent authorities<sup>4</sup> and/or central banks belonging to the European System of Central Banks (ESCB).** In some cases, these authorities provide systemic risk analysis to other authorities that are mandated to take decisions on macroprudential instruments. These authorities are referred to as “authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks” throughout this document.<sup>5</sup> In addition, ESCB central banks and competent authorities collect information on branches of credit institutions having their head office in another Member State or in a third country (foreign branches)<sup>6</sup> and can be a relevant source of information even if they are not entrusted with financial stability and macroprudential policy tasks.

**In the banking union, some competencies in the microprudential and macroprudential areas are conferred on the ECB.** In the banking union, the ECB may, if deemed necessary, apply higher requirements for capital buffers than those applied by the authorities or may adopt more stringent measures aimed at addressing systemic or macroprudential risks at the level of credit institutions, subject to the procedures set out in the relevant Union law. For the exclusive purpose of carrying out these tasks, the ECB shall be considered, as appropriate, the competent authority or the designated authority in the participating Member States.<sup>7</sup>

**To conduct a comprehensive analysis of systemic risk, authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks need appropriate, accurate and timely information, including information on financial**

<sup>1</sup> Sub-recommendation A(1) of the Recommendation of the European Systemic Risk Board of 22 December 2011 on the macro-prudential mandate of national authorities (ESRB/2011/3) (OJ C 41, 14.2.2012, p. 1).

<sup>2</sup> Authority designated by the Member State and entrusted with the conduct of macroprudential policy and with the adoption and/or activation of macroprudential policy measures according to sub-recommendation B(1) of Recommendation ESRB/2011/3. Member States have been given discretion in designating a macroprudential authority, which has resulted in differences in the institutional organisation of macroprudential policy at the national level. The function of macroprudential authority might be performed by a central bank, a competent authority or a collegial body, such as a board or a committee.

<sup>3</sup> A public authority or body designated by a Member State that is responsible for setting the countercyclical capital buffer rate for that Member State under Article 136(1) of the Capital Requirements Directive (CRD IV), and/or which is responsible for the systemic risk buffer and/or for identifying systemically important institutions. According to Article 458(1) of the Capital Requirements Regulation (CRR), a designated authority is also an authority in charge of the application of the measures set out in the same article of the CRR.

<sup>4</sup> A competent authority means a public authority or body officially recognised by national law which is empowered by national law to supervise credit institutions as part of the supervisory system in operation in the Member State concerned.

<sup>5</sup> For an overview of the institutional set-up at national level, please refer to the [Review of Macroprudential Policy in the EU in 2017](#) and the [ESRB website](#).

<sup>6</sup> The terms “foreign branch” or “branch of a foreign institution” are defined as meaning a branch of a credit institution having its head office in another Member State or in a third country. These terms are used interchangeably within this document.

<sup>7</sup> See Articles 5 and 9 of the SSM Regulation.



**institutions operating within their jurisdiction.** The ESRB Regulation<sup>8</sup> recognises that the ESRB should have access to all the information necessary to perform its duties while preserving the confidentiality of that information as required.<sup>9</sup> The ESRB has recommended that macroprudential authorities should have the power to require and obtain in a timely fashion all national data and information relevant for the exercise of its tasks.<sup>10</sup> This includes information from competent authorities and securities market supervisors and information from outside the regulatory perimeter, as well as institution-specific information upon reasoned request and with adequate arrangements to ensure confidentiality. However, this recommendation did not envisage the different institutional set-ups for macroprudential policy that had evolved in Member States since 2011 and did not address the information that is not already available at national level.

**This report discusses the financial stability implications of foreign branches and analyses the EU legal framework for the exchange and collection of information for macroprudential purposes.** Chapter 2 describes how significant foreign branches are in EU Member States, while Chapter 3 discusses their potential financial stability implications. Chapter 4 describes the current situation regarding existing definitions, information available and the framework for the exchange of information on foreign branches within the overall EU legal framework. It also discusses new avenues for requiring and exchanging information on foreign branches. Chapter 5 wraps up the report and draws the following conclusions: 1) a framework for the exchange of information on foreign branches for macroprudential purposes is necessary and should be further developed at EU and national level and 2) colleges of supervisors and voluntary arrangements between authorities on the exchange of information within the existing legal framework, such as Memoranda of Understanding, are proposed as the vehicles of this framework.

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<sup>8</sup> Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.2.2010, p. 1).

<sup>9</sup> Recital (27) and Article 15 of the ESRB Regulation.

<sup>10</sup> Sub-recommendation C(2) of Recommendation ESRB/2011/3.



## 2 Significance of foreign branches

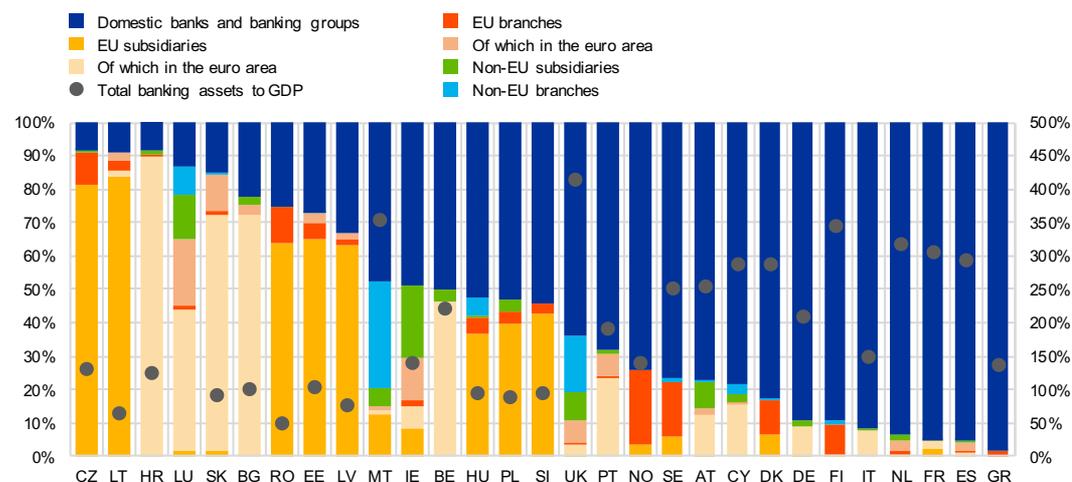
The cross-border penetration of banking, which is a key measure of financial integration in the EU<sup>11</sup>, shows very different patterns across Member States. This variation is clearly illustrated by the differences in the role branches and subsidiaries of foreign institutions (foreign affiliates) play in financial intermediation in EU countries. In this regard, three groups of countries can be identified.

The first group consists of eight central and eastern European (CEE) countries, along with Luxembourg. Foreign affiliates (i.e. branches and subsidiaries together) play a dominant role in these countries, with combined market shares exceeding 65% (see Chart 1). While these banking sectors are typically dominated by foreign subsidiaries, the market share of foreign branches is also significant and can reach up to 25% of the banking sector assets in individual countries. From a supervisory perspective, these countries can be considered typical “host” countries, with parent institutions mostly established in the banking union.

Chart 1

### Share of foreign affiliates in total banking sector assets across the EU in Q4 2018

(percentages)



Sources: ECB Consolidated Banking Data, Banking Structural Statistical Indicators and Derived Data, ESRB survey and ESRB calculations.

Notes: The coloured stacked bars refer to the shares of assets held by branches and subsidiaries in the total banking assets of a Member State, as of Q4 2018, and correspond to the left-hand axis. Where data were available, the assets held by EU branches or subsidiaries were split according to whether or not the respective parent institution was incorporated within the euro area. In cases where no data were available for branches or subsidiaries incorporated in the euro area, all branches and subsidiaries are simply shown in the chart as being incorporated in the EU; this approach was taken for CZ, DK, EE, FI, GR, HU, PL, RO, SE and SI (EU subsidiaries) and for BE, CZ, DK, FR, GR, HR, HU, IE, IT, PL, RO, SE, SI and UK (EU branches). In some of these cases, it is possible that no banks are incorporated in the euro area at all. The black dots refer to the sum of total consolidated assets of domestic banking groups and stand-alone banks plus the total assets of foreign-controlled branches and subsidiaries as a percentage of nominal GDP of those countries for Q4 2018, corresponding to the right-hand axis. The right-hand axis is truncated at 500%; in this connection, it should be noted that the true value for Luxembourg is 1,446%. As data for the United Kingdom and Ireland were only partially available, two databases (Consolidated Banking Data (CBD) and

<sup>11</sup> For the ECB, a market is fully integrated if all potential market participants with the same relevant characteristics (i) face a single set of rules, (ii) have equal access to the market and (iii) are treated equally when they are active in the market.



banking structural statistical indicators (SSIs) were used. Annual data for 2018 were used in the case of the Banking SSI for the UK and Ireland. For Ireland, non-EU branch data were excluded owing to data confidentiality considerations. Owing to missing (CBD) data for Denmark, statistics here were consolidated with the ESRB survey statistics, as submitted by the Danish authorities and Banking SSI. Data for Norway were provided directly by Norges Bank.

**The second group comprises 13 countries where the shares of domestic and foreign affiliates are broadly balanced within a range of 10% to 60%.** Importantly, in six of the countries in this group – namely Denmark, Norway, Sweden, the United Kingdom, Finland and Malta – the share of branches already stands at 10% to 40% of total banking sector assets.

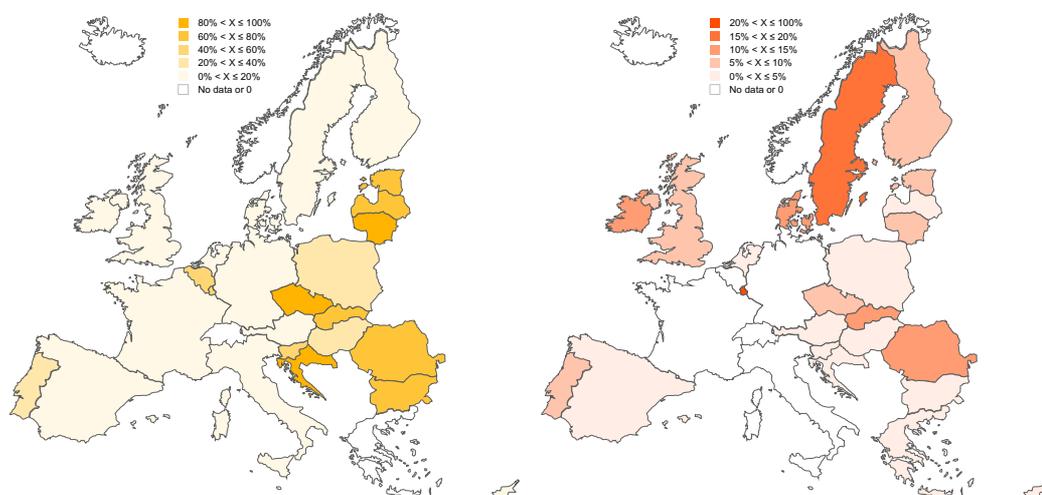
**The third group is made up of seven countries where domestic institutions dominate, with a share of foreign affiliates below 10%.** These countries can be considered typically “home” countries and are located within the banking union, where the supervisory tasks with relation to significant institutions are exercised by the ECB.

**The charts below show a notable geographical split between home and host jurisdictions:** while relevant authorities in CEE countries and in the Nordic-Baltic region are typically in the position of a “host” authority, those in the “old” Member States are typically “home” authorities.

Chart 1

**Share of EU subsidiaries (yellow) and branches (red) in total assets**

(percentages)



Sources: ECB Consolidated Banking Data, Banking Structural Statistical Indicators and Derived Data, ESRB survey and ESRB calculations.

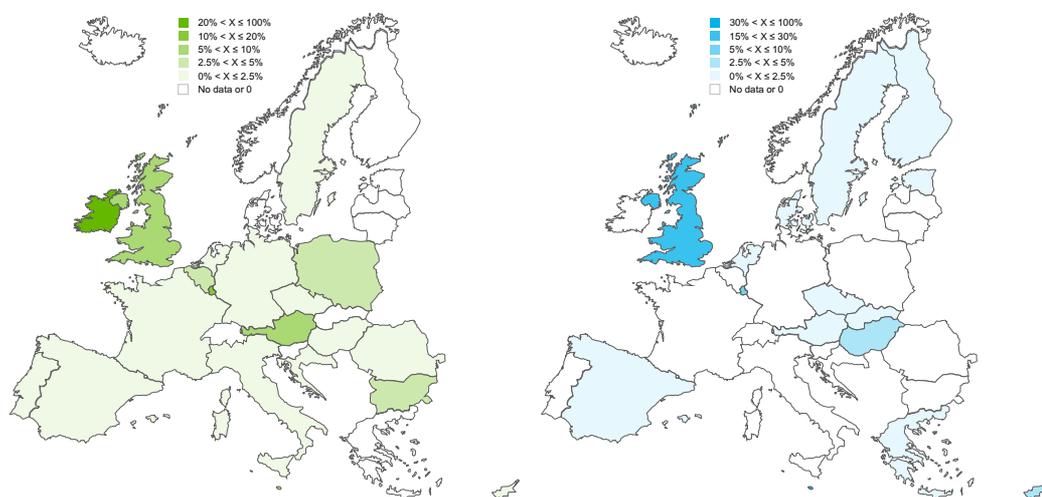
Notes: The colour of the country reflects the share of assets in the total banking assets of a Member State held by EU subsidiaries (left-hand graphic) and EU branches (right-hand graphic), as of Q4 2018. As data for the United Kingdom were only partially available, two databases (CBD and Banking SSI) were used. All data for the United Kingdom is as of 2018. Owing to missing (CBD) data for Denmark, statistics here are consolidated with the ESRB survey statistics, as submitted by the Danish authorities. Data for Norway were provided directly by Norges Bank.



Chart 3

**Share of non-EU subsidiaries (green) and branches (blue) in total assets**

(percentages)



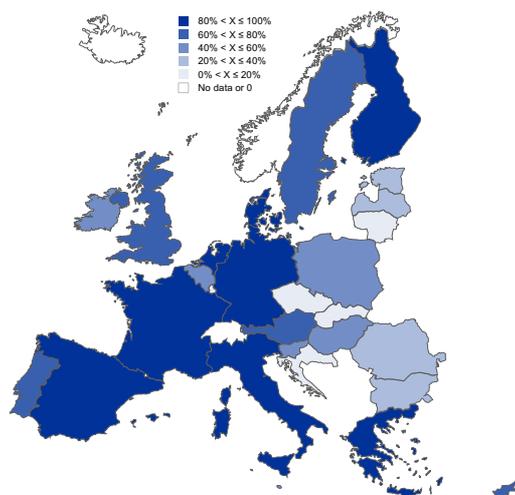
Sources: ECB Consolidated Banking Data, Banking Structural Statistical Indicators and Derived Data, ESRB survey and ESRB calculations.

Notes: The colour of the country reflects the share of assets in the total banking assets of a Member State held by non-EU subsidiaries (left-hand graphic) and non-EU branches (right-hand graphic), as of Q4 2018. As data for the United Kingdom were only partially available, two databases (CBD and Banking SSI) were used. All data for the United Kingdom is as of 2018. Owing to missing (CBD) data for Denmark, statistics here are consolidated with the ESRB survey statistics, as submitted by the Danish authorities. Data for Norway were provided directly by Norges Bank. For Ireland, non-EU branch data are excluded owing to data confidentiality considerations.

Chart 4

**Share of domestic banks in total assets**

(percentages)



Sources: ECB Consolidated Banking Data, Banking Structural Statistical Indicators and Derived Data, ESRB survey and ESRB calculations.



*Notes: The colour of the country reflects the share of assets in the total banking assets of a Member State held by domestic banks as of Q4 2018. As data for the United Kingdom were only partially available, two databases (CBD and Banking SSI) were used. All data for the United Kingdom are as of 2018. Owing to missing (CBD) data for Denmark, statistics here are consolidated with the ESRB survey statistics, as submitted by the Danish authorities. Data for Norway were provided directly by Norges Bank.*

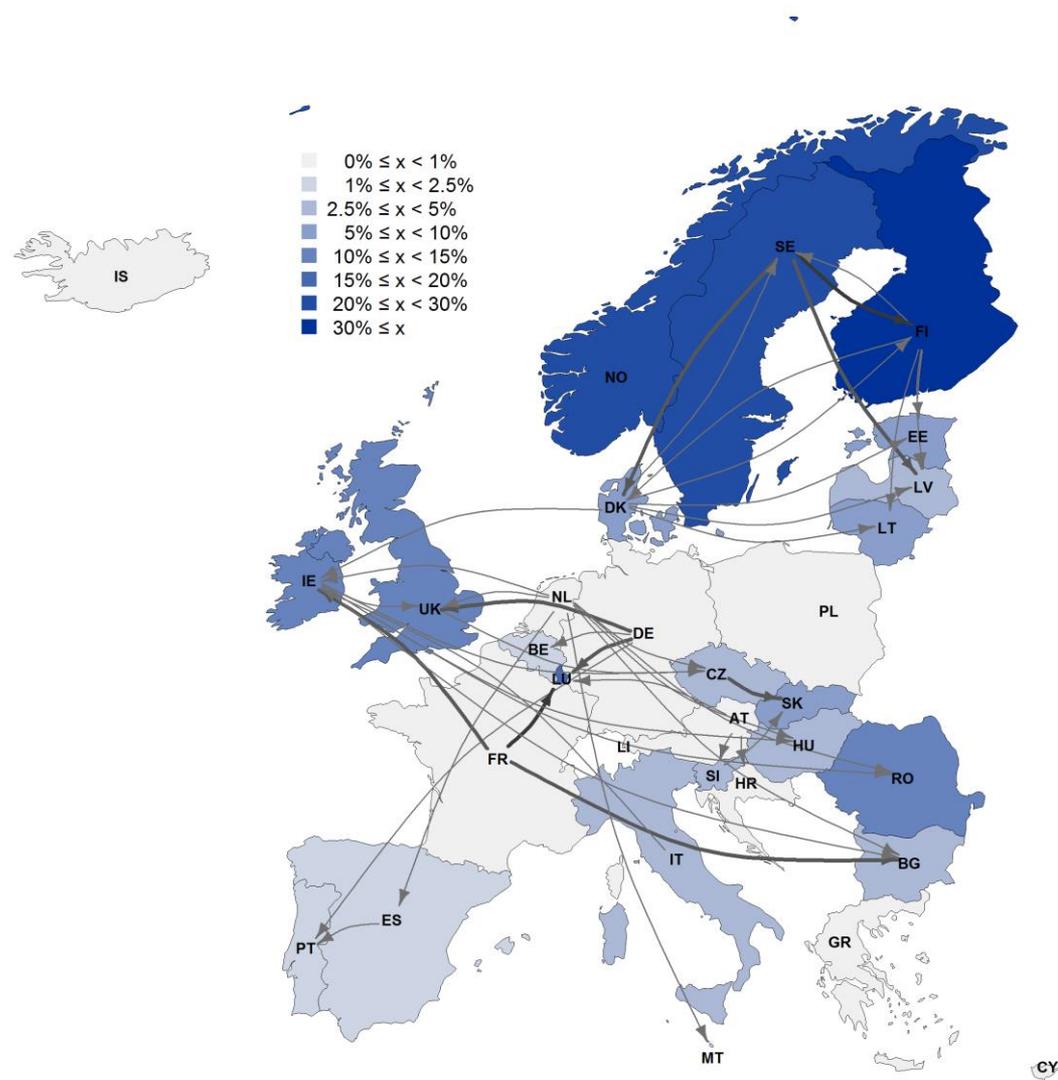
**As regards the country of origin of foreign affiliates, the share of EU branches and subsidiaries is generally significantly higher than that of non-EU affiliates.** This general pattern is observable in almost all EU countries with the exception of Malta, Ireland and the United Kingdom. In Malta, non-EU branches have a much higher market share than non-EU subsidiaries. In addition, non-EU branches have a market share exceeding 1% in Luxembourg, Hungary, Finland and Cyprus. The parent institutions of the EU branches and subsidiaries are in most cases located in Member States belonging to the banking union.



Chart 2

**Cross-border links between Member States through the presence of EU branches with a market share above 1%**

(percentages)



Sources: ESRB survey and ESRB calculations.

Notes: The colour of the country reflects the total share of assets in the total banking assets of a Member State held by EU branches from other Member States as of Q2 2018. The chart includes branches with a market share of at least 1% of assets in the total banking assets of a host Member State. The arrow between countries indicates the link between the home country of the direct parent institution and the country where its branch operates (host country). The thickness of the arrow is proportional to the number of such links.

**As regards the changes in the number and total assets of subsidiaries and branches of EU institutions, the last decade shows a mixed picture (see Chart 6).** While the decline in the number of EU subsidiaries from 489 to 301 in the period 2009-2018 was broadly based (with only Austria, Belgium and France reporting an increase), the decrease in total assets from €4,858 billion to €3,615 billion in the same period hides substantial cross-country differences. In fact, despite the

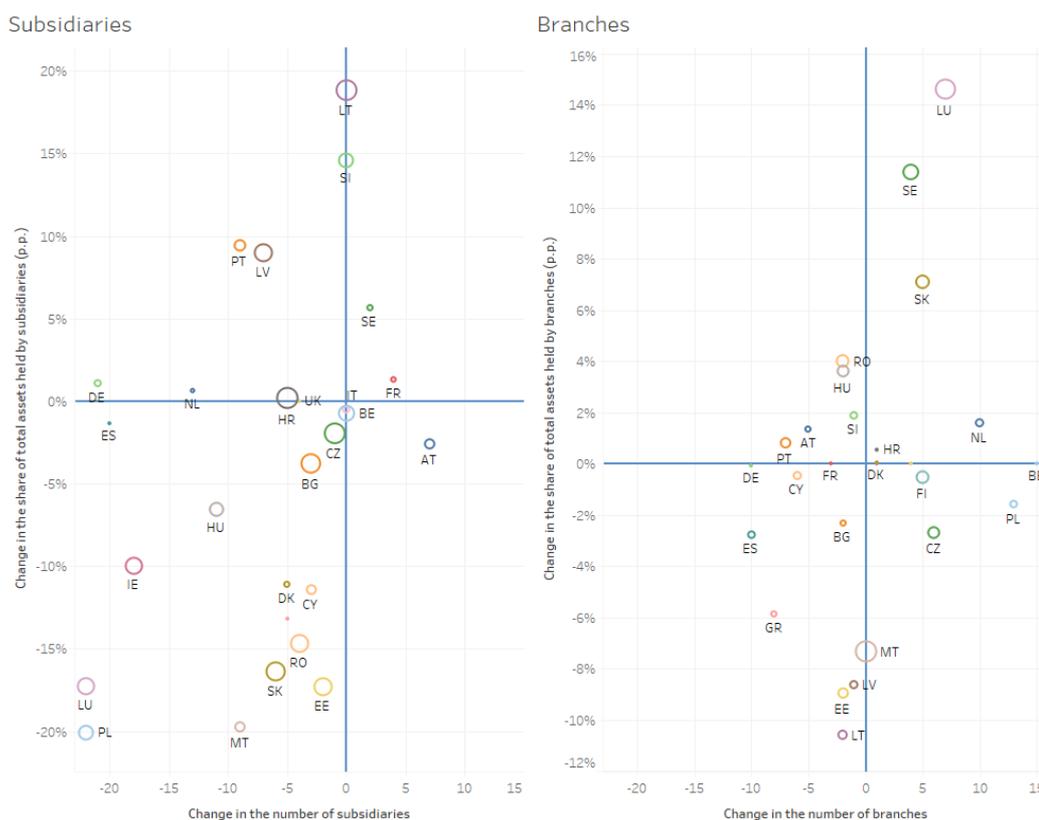


decrease at the aggregate level, total assets of EU subsidiaries actually increased in nine Member States. Similarly, the number of EU branches declined in 14 Member States, while it increased in 12 Member States. The total assets of EU branches decreased from €3,040 billion to €2,580 billion on aggregate in the same period, driven by the €824 billion decrease in assets in the United Kingdom. Nonetheless, in 11 Member States the total assets of EU branches increased. The increasing share of branches is also noted in the ECB's 2017 Report on financial structures.<sup>12</sup>

**Meanwhile, the role of branches and subsidiaries of non-EU institutions in financial intermediation at the EU level has been increasing since the financial crisis.** The growth in their combined total assets from €2,712 billion in 2009 to €4,210 billion in 2018 is particularly remarkable. While the number of non-EU branches rose during the period under review (from 207 in 2009 to 248 in 2018), those of non-EU subsidiaries decreased moderately (from 281 in 2009 to 238 in 2018). All of this notwithstanding, non-EU affiliates play a role in only a few Member States.

**Chart 3**  
**Change in the share of foreign branches and subsidiaries across the EU (2009-2018)**

(absolute numbers, percentages)



Sources: ECB Consolidated Banking Data and Banking Structural Statistical Indicators, ESRB survey and ESRB calculations.  
Notes: The size of the data point represents the share of assets of branches/subsidiaries in total assets at Q4 2018. The change in the share refers to a percentage point change in the share of branches/subsidiaries between Q4 2009 and Q4 2018. The changes in the number of institutions are between 2009 and 2018. However, the period of study is altered for a Member State in

<sup>12</sup> See Section 2.1 of the **Report on financial structures** of October 2017.



*the case of limited data. In such cases, the period of study is held constant for both the branch and subsidiary graphs for an individual Member State. Specifically, these cases are Croatia (Q2 2013 to Q4 2018), Finland (Q4 2011 to Q4 2018), Greece (Q4 2009 to Q4 2017), Sweden (Q4 2010 to Q4 2018) and Slovenia (Q4 2012 to Q4 2018). For Belgium, France, Denmark and Italy, Banking SSI data are used to evaluate changes from 2009 to 2017 for asset shares of branches and for numbers of branches. For Finland, Greece, Lithuania and Slovenia, data on non-EU subsidiary assets and on the numbers of non-EU subsidiaries are missing. For the United Kingdom, CBD and Banking SSI data were used to evaluate changes from 2009 to 2017, for both asset shares and institution numbers.*

**Although the majority of foreign branches are of relatively minor importance to the banking systems of the host countries, some might be relevant from a financial stability perspective.**

According to the ESRB Instruments Working Group (IWG) survey<sup>13</sup>, there are currently 14 EU branches and six non-EU branches with a market share greater than 4% of the total assets of the banking sector of a particular Member State. This is a slight increase from the 12 EU branches and four non-EU branches reported in 2017. A further 38 EU branches and five non-EU branches have a market share above 1%. There are nine Member States without any foreign branch exceeding 1% of the market share.

**In the survey, member countries identified 26 foreign branches as significant<sup>14</sup> and 11 as significant-plus<sup>15</sup>.** The identification criteria are generally seen as appropriate by those that have significant branches, although respondents indicated very limited experience with significant-plus branches so far. Importantly, there are 20 foreign branches that would meet the criteria for being identified as O-SIIs according to the national frameworks if they were subsidiaries instead of branches. Based on the survey, competent authorities are generally considered to have enough access to information to meet their needs, while this is not always the case for authorities entrusted with financial stability and macroprudential policy tasks. Sharing of information within or among host relevant authorities also differs across jurisdictions. In addition, some information considered necessary for host authorities entrusted with financial stability and macroprudential policy tasks may not currently be available to any relevant host authority.

**Members reported 22 cases where a foreign subsidiary was changed into a branch (a process called “branchification”) in the last five years, and the trend is expected to continue.** A few of these cases involved changing a foreign subsidiary identified as an O-SII into a branch. Members also reported several ongoing cases when foreign subsidiaries are being changed into branches or where such a transformation is envisaged in the next two years. IWG members highlighted the fact that branchification has implications for (i) the use of the macroprudential toolkit and the effectiveness of the reciprocity framework, (ii) banks’ resolution strategies and the scope and coverage of national deposit guarantee schemes (DGSs), (iii) access to emergency liquidity assistance (ELA), (iv) the contagion of shocks and lending spillovers, (v) tax treatment and other regulatory arbitrage opportunities and (vi) the possibility of risk assessment, which is considered to be more difficult for branches. Furthermore, the amplification of funding shocks from redemptions of investment funds and a no-deal Brexit were mentioned as relevant issues in the context of branchification.

**As a general conclusion, the systemic relevance of foreign subsidiaries and branches varies substantially across Member States.** The differences in the financial structures of “home” and

<sup>13</sup> The survey was conducted among 29 IWG member countries in August 2017 and November 2018.

<sup>14</sup> Article 51 of the CRD IV. For further details, see Chapter 4.

<sup>15</sup> **EBA Guidelines on supervision of significant branches (EBA/GL/2017/14).** For further details, see Chapter 4.



“host” countries pose different challenges to authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in these jurisdictions. This also underlines the importance of having in place well-designed information-sharing arrangements both (i) between home and host countries and (ii) between competent authorities and authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks. Such arrangements are particularly important for foreign branches, as these branches do not have a separate legal entity, so the scope and depth of information on their activity and the risks they pose to the financial system in host countries are limited. This feature of the EU financial system necessitates the improvement of information-sharing between relevant authorities in “home” and “host” jurisdictions.



### 3 Financial stability implications of foreign branches

**Available research regarding the financial stability implications of a significant presence of foreign branches in a given market is rare.** Most research studies analyse the impact of foreign institutions through direct cross-border lending or through their affiliates but do not draw a distinction between branches and subsidiaries.<sup>16</sup> Only a few empirical studies in fact distinguish between the impact of branches and subsidiaries.

**Cross-border banks react to economic shocks or macroprudential policy decisions causing spillovers to other countries.** Shocks or policies in home countries can affect the behaviour of banking groups in host countries through direct lending or the behaviour of their foreign subsidiaries or branches.<sup>17</sup> Similarly, shocks or policies in host countries can impact the foreign parent institution present in the home market. The impact and behaviour of foreign banks also depends on the extent to which macroprudential measures affect foreign branches, subsidiaries or direct cross-border lending.

**Foreign subsidiaries and branches may react differently to domestic and foreign economic shocks or policy decisions.**<sup>18</sup> The implicit assumption is that, within banking groups with a predominantly branch structure, capital and liquidity can be moved around without significant constraints. This might not be the case for groups relying predominantly on a subsidiary structure, for the following reasons:

- (i) withdrawal of capital and liquidity from subsidiaries is more difficult, owing for example to the need to maintain capital adequacy requirements at the solo level, including Pillar II measures, large exposure limits, restrictions on transactions with related entities, liquidity restrictions, peer pressure in the local market etc.;
- (ii) parent institutions may be more reluctant to allocate more capital to subsidiaries in the light of the issues related to a potential future withdrawal as mentioned in (i);
- (iii) subsidiaries generally have better local know-how.

**While large and strong EU-wide banks may act as stabilisers during asymmetric shocks if their lending is not procyclical, large and weak EU-wide banks may transmit shocks across borders rather than absorb them.** Available empirical research provides evidence for both cases and suggests that the condition of the parent group and its commitment to the local market are more decisive in determining the impact than the legal form of affiliates. Consequently, information on the parent group, the activities of the branches and the group's commitment to the market are important for assessing risks in a host banking market. Nevertheless, sufficient tools should be in

<sup>16</sup> See, for example, Cerutti and Zhou (2018), Cerutti and Claessens (2014) and Herman and Kulwant (2010).

<sup>17</sup> See, for example, Avdjiev et al. (2017) and Buch and Goldberg (2016) for the potential transmission channels.

<sup>18</sup> For example, Cerutti and Claessens (2014) mention restrictions on the intragroup transfer of capital as the reason why direct cross-border loans decreased by 23% during the financial crisis compared with a less pronounced reduction of 5% in affiliates' lending.



place to prevent procyclical lending in a particular economy in order to prevent banks from amplifying shocks instead of smoothing them.<sup>19</sup>

### 3.1 Ability to withstand shocks

**Banking groups with a branch-dominated structure can in principle draw more easily on resources from the entire group to help local operations that have suffered a shock.** A group with a subsidiary structure might not be able to secure sufficient or timely resources where and when most needed. By making it possible to mobilise group resources, the branch structure supports the viability not only of the local affiliate, but also of the whole group, if sufficient resources are available at the group level.

**However, if a local shock is too large and/or group resources are not adequate, the branch structure can threaten the viability of the whole group through contagion.**<sup>20</sup> The branch structure is also more likely to directly transmit shocks to other parts of the group and affect different economies where the group is present. In the event of a severe local shock, a particular subsidiary might fail, but the losses could in principle be ring-fenced and the rest of the group thus shielded from contagion. Nonetheless, in practice even a subsidiary structure might be exposed to contagion risk depending on the size and level of integration of a subsidiary.<sup>21</sup>

**The ability to withstand shocks depends ultimately on the solvency and resilience of the group as a whole.** The support of branch operations entails stronger engagement, in principle, on the part of the parent institution, as it is not a legal entity of its own. Although drawing on resources is assumed easier within a branch structure, the group could likewise support a subsidiary that is facing a shock. The extent to which a parent institution supports its branch or subsidiary is ultimately a function of the group's solvency and funding pattern<sup>22</sup> and does not depend so much on the legal form of the affiliate.

**The group's commitment to the local market is also an important factor for the assessment of risks to financial stability.** Even though the parent institution has to bear all the losses of the branch, the extent to which the group redirects funds from other healthy affiliates to support further operations of its branch or subsidiary after the shock may vary. The group's commitment can change over time and depends on the affiliate's income-generating capacity, size, and role in the group's strategic business plan or reputational risk. National authorities might not always be in a position to address asymmetric macroeconomic shocks adequately, and large banks might counteract such shocks if they are sound and have a commitment to the local market. In the recent crises, banking groups generally supported their affiliates in the event of financial difficulties (Box 1). Nevertheless, such a commitment cannot be guaranteed, particularly in cases where the foreign branch or subsidiary is insignificant from the group perspective. In such situations, the

<sup>19</sup> See, for example, Bouvatier, López-Villavicencio and Mignon (2012), Cerutti and Claessens (2014) and Nikolov (2010) for analyses of procyclical lending.

<sup>20</sup> It is the responsibility of the competent authority of the home Member State or the consolidated supervisor to ensure that sufficient resources are available to the group to withstand shocks.

<sup>21</sup> For example, owing to cross-default contractual clauses, reliance on critical infrastructure or systems provided by individual entities within a group, or because of reputational risk.

<sup>22</sup> For example, many wholesale instruments contain cross-default clauses in respect of material subsidiaries.



group might not be interested in maintaining the business line in the event of stress. This may have serious implications for the host economy, particularly where a foreign branch or subsidiary is significant from the host country perspective.

## Box 1

### Examples of group support for subsidiaries during the global financial crisis

**The so-called Vienna Initiative helped to mitigate the impact of the financial crisis in the CEE region.** This public-private initiative, launched in January 2009, brought together all stakeholders, namely banks, home and host regulators and international organisations. The main objectives were (i) to prevent a large-scale and uncoordinated withdrawal from the region, (ii) to ensure that parent bank groups maintained their exposures and recapitalised their subsidiaries in the region, (iii) to avoid home bias in support measures and (iv) to implement basic crisis management principles in the region, including burden-sharing. The press release of March 2010 concluded that foreign banks remained strongly committed to the region, resulting in a better-than-expected recovery across the region.

**The Vienna Initiative was followed by specific actions by private and public institutions and their effectiveness was confirmed by academic research. The EBRD, EIB and World Bank provided over €33 billion in support of the CEE region in 2009 and 2010, according to the Vienna Initiative's March 2011 press release. Foreign banks also recapitalised their subsidiaries in many cases.** Claessens and Van Horen (2013) demonstrated that while domestic banks had been constrained in the provision of credit during the crisis, subsidiaries of foreign banks have maintained credit provision. De Haas and Van Horen (2011) showed that lending by banks which took part in the Vienna Initiative was to some extent more stable than lending by banks which did not take part. Kutasi (2017) showed that multinational banks were instrumental in maintaining capital adequacy and lending capacity in the CEE region.

**The crisis in the Baltic countries in 2008-2009 showed how problems in foreign subsidiaries could spread through the integrated banking system to parent institutions and become an issue for systemic stability.** The Nordic-Baltic banking system is highly integrated and concentrated, being dominated by a few large banks. In 2008, as the global financial crisis hit Europe, domestic demand collapsed in the Baltic countries following the build-up and then the bursting of a property bubble to which international banks had contributed. Fear of a deep recession and abandonment of the fixed exchange rates against the euro, which would have resulted in large loan losses, made investors lose faith in the Baltic banks and consequently in their parent **institutions**. The wholesale funding of the parent **institutions** became more expensive and scarcer, a problem which then also spread to banks with small or non-existent exposures to the Baltic region.

**Despite the adverse economic development in the Baltic countries, parent institutions continued to roll over a large share of their loans to their foreign subsidiaries,** acknowledging that cutting credit would probably lead to a worse outcome. Hence, while the risk of contagion is high in an integrated financial system, the close connection also helped stabilise the financial system, at least in the case of the Baltics. Since the financial crisis of 2008-2009, all three Baltic



countries have joined the euro area and the Nordic banks' subsidiaries in the Baltic States increasingly fund themselves through domestic deposits.

a) For further information on the Vienna Initiative see [vienna-initiative.com](http://vienna-initiative.com).

b) For a more detailed description of the Baltic crisis, see Farelus and Billborn (2016).

## 3.2 Impact on lending

**Foreign banks with a firm commitment to their affiliates can serve as stabilisers when lending by domestic banks is restricted by local shocks.** Empirical evidence suggests that parent institutions, especially less vulnerable and more committed ones, can support their foreign operations during crisis periods.<sup>23</sup> Consequently, these subsidiaries and branches of foreign institutions do not need to restrict lending in host countries to the same extent as domestic banks, which reduces the crisis impact on the host country. Such support can be provided both through branches and through subsidiaries, although the empirical research on branches is limited.

**For example, foreign branches lacking the firm commitment of the parent institution or with a vulnerable parent institution have the potential to exacerbate the local credit cycle.** Cerutti and Claessens (2014) use BIS data for the global financial crisis (2007-2009) to demonstrate that foreign banks increased their lending to emerging economies more than domestic banks in the period before the financial crisis, while reducing it more during the crisis. Their analysis is consistent with the view that such behaviour is easier for a branch than a subsidiary, since capital cannot be easily withdrawn from the latter. According to Hoggarth et al. (2013), focusing on the UK banking system during the recent financial crisis (2007-2009), parent institutions appeared to be less committed to their UK branches. The reasons include the fact that foreign branches in the United Kingdom often lent to sectors where credit demand was more sensitive to the economic cycle (role of market contestant), took on more credit risk, relied more heavily on interbank funding and upstreamed lending significantly to other, foreign parts of their banking groups during the crisis.

**Furthermore, foreign branches may increase lending in host countries if they are not subject to the same local macroprudential measures as domestic banks.** Many studies confirm the effectiveness of domestic policies, which is associated with lower credit growth.<sup>24</sup> If macroprudential policies target only domestic banks, foreign banks in general increase their loan supply in host markets, thus negating the reduction in credit supply from domestic banks.<sup>25</sup> However, if measures also apply to foreign banks, their behaviour does not differ from that of domestic banks.<sup>26</sup> The efforts of host authorities to mitigate systemic risks could thus be made at least partly void by the behaviour of foreign branches.

<sup>23</sup> See, for example, de Haas and Van Lelyveld (2006).

<sup>24</sup> See, for example, Cerutti, Claessens and Laeven (2017).

<sup>25</sup> The possibility of arbitraging measures not applying to foreign branches is not limited to lending activities. For example, Banco Espírito Santo was operating in Spain as a branch, and the recommendation by Banco de España regarding limits on the remuneration of deposits was not binding on the branch. As a result, the branch was offering remunerations of 5% on their deposits, whereas, by law, the other Spanish banks could not exceed 1.5%. The funds gathered in Spain by the branch were not used to lend to the Spanish real economy but to finance the bank's domestic Portuguese operations.

<sup>26</sup> See Avdjiev et al. (2017), Reinhardt et al. (2015), Caccavaoi et al. (2017), Ohls et al. (2017) and Aiyar et al. (2014).



**In addition, foreign banks tend to transmit foreign shocks by reducing their credit supply in host markets, but less so in the case of more important affiliates.** International banks greatly reduced their direct cross-border and local affiliates' (subsidiaries or branches) lending during the global financial crisis, but more in cases where they had small market shares than in the case of large market shares.<sup>27</sup> When subject to funding shocks, foreign banks tend to reallocate funds towards important subsidiaries.<sup>28</sup> Herman et al. (2010) also showed that the impact of the global financial crisis on Latin American countries was lower when lending was done by local affiliates in local currency and funded by local deposits.

**Prudential actions in the home countries also spill over across borders to host markets both positively and negatively.** The International Banking Research Network initiative<sup>29</sup>, which conducted homogeneous studies for a set of 15 countries and two cross-country studies, confirm that global banks reallocate lending externally when local requirements change. The effect on lending growth is not found to be large on average. However, the results tend to underestimate the effects because, during the period analysed, only a few countries implemented country-specific macroprudential policy. The BIS team found that institution-based prudential instruments had a greater effect on the local lending of foreign affiliates (no distinction is made between branches and subsidiaries), whereas activity-based instruments primarily affected cross-border lending.<sup>30</sup> Less vulnerable banks increase their foreign lending if subject to domestic macroprudential policy measures, while vulnerable banks do so to a lesser extent.

**Consequently, information on the commitment and resilience of banking groups having branches in the local market is important for assessing the potential effects on domestic credit, particularly where branches have a significant market share.** A branch structure might lead to more procyclical lending behaviour if the commitment of the group to the local market is low. It could be argued that branches which had built up retail portfolios and a solid deposit base would keep their commitment to the local market. However, this cannot be guaranteed ex ante and needs to be assessed continuously, as the commitment of a group to a local market can change over time.

### 3.3 Challenges for macroprudential policy

**The choice of the legal form on how to operate in other jurisdictions is an important decision for a bank.** Whether a bank prefers to operate via foreign branches or subsidiaries depends on a great number of factors, including the business model of the firm, and the tax and regulatory regimes in both home and host country.<sup>31</sup> Changes in the bank's operating environment, such as competitive pressures, the introduction of a new regulatory framework or a modification of tax on financial investments might consequently warrant adjustments to the legal form of the foreign affiliates concerned. Meanwhile, the policy framework needs to ensure that the right incentives and safeguards are in place for all stakeholders.

<sup>27</sup> See, for example, Cerutti and Claessens (2014).

<sup>28</sup> See Cetorelli and Goldberg (2012).

<sup>29</sup> See Buch and Goldberg (2016).

<sup>30</sup> See Avdjiev et al. (2017).

<sup>31</sup> See, for example, Cerutti et al. (2007) and Fiechter et al. (2011).



**The home jurisdiction's regulatory structure must ensure that the groups are fundamentally safe and sound, and that the parent institution will generally be able to support its operations across the group.** Home country supervision must contain the risks to the financial system created by banking activity that is not fully captured by regulations. It must also ensure that the banks are fundamentally safe and sound, so as to prevent possible contagion risk to foreign operations. Nonetheless, authorities in home and host jurisdictions will still face challenges in assessing cross-jurisdiction vulnerabilities and need effective burden-sharing agreements to resolve problems in times of crisis.

### Access of authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks to information on foreign branches

**First and foremost, macroprudential policy needs to be based on sound and timely data so that systemic risk can be identified and analysed.** Standard reporting requirements for foreign branches, which are more limited than those of foreign subsidiaries, might not be sufficient to fulfil this task in some cases. Consequently, additional data might be needed by the authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks, including information on the parent institution and group. Therefore, a stronger cooperation framework between authorities in home and host jurisdictions is warranted to ensure financial stability. Section 4.3 discusses what information about foreign branches is needed by the host authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks.

### Systemic importance of foreign branches

**A banking group can have a systemically important presence in a given market through a branch as well as a subsidiary, and the costs of its failure will be borne by the local economy.** While the home Member State will assume (most of) the fiscal costs of a potential failure of the group (fiscal externalities, cost of deposit guarantee), the host Member State will still suffer from the impact on its real economy (real externalities). In particular, the resulting decline in credit will have a negative impact on the local economy, no matter whether the crisis is caused by a failed subsidiary or by a group having a local branch. While, in the case of subsidiaries, host authorities have powers to act in order to contain or resolve problems encountered by a subsidiary (supervisory powers, early intervention, recovery and resolution, ELA), in the case of a foreign branch it is the responsibility of home authorities to take such measures. Given potentially different incentives for home and host authorities, this could pose financial stability risks for host countries, especially where a foreign branch is of systemic importance.

**However, in the case of a foreign branch, capital cannot be allocated in the host Member State through an O-SII buffer.** In contrast to subsidiaries, foreign branches cannot be identified as other systemically important institutions (O-SIIs) in the host Member State. As branches do not hold regulatory capital, they also cannot be required to hold an O-SII buffer. While macroprudential



capital buffers might apply at the group level<sup>32</sup>, no instrument can ensure that capital is located or remains committed to the host Member State when credit conditions are tight. This might increase systemic risks if the commitment of the group to the local market is low.

**Furthermore, the systemic importance of foreign branches and subsidiaries is not taken into account when setting the consolidated O-SII buffer of the banking group.** According to the European Banking Authority (EBA) Guidelines on criteria for the assessment of O-SIIs<sup>33</sup>, the consolidated position of the entire group is assessed in relation to the home banking system and without taking into account the systemic importance of the group in host Member States. Therefore, it is generally possible that a smaller banking group established in a large economy would be of little systemic importance, or would not be identified as an O-SII at all, but would have a dominant and highly systemic presence in other, smaller, economies.<sup>34</sup> The EBA methodology for the identification of O-SIIs could be adjusted to address this issue.

**The EBA identified information-sharing among designated authorities<sup>35</sup> with regard to O-SII identification as good practice. However, it noted that this practice was followed only in a few cases.**<sup>36</sup> According to the EBA, information-sharing among relevant authorities should be seen as good practice that should be encouraged even where supervisory colleges are not formally set up for a particular institution or banking group. Such information-sharing should be encouraged, in particular, once an entity with cross-border activity is first identified as an O-SII. The EBA concluded that this practice is within the boundaries of the current legislative framework. So far, however, few relevant authorities seem to be sharing information in this way.

**In addition, host authorities might not have all the information from branches that is required by the EBA Guidelines on criteria for the assessment of O-SIIs.** The EBA Guidelines on criteria for the assessment of O-SIIs require national authorities to include information on branches when calculating O-SII scores in identifying O-SIIs. The EBA stated in its peer review of these EBA Guidelines that *“given the increasing contributions of bank branches to national banking systems, it becomes critical to monitor and assess any systemic risks brought into the system by foreign branches”*, adding that *“ideally, all foreign branches should be assigned an individual score”*.<sup>37</sup> However, not all information is being reported by branches.

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<sup>32</sup> The capital conservation buffer and the countercyclical capital buffer apply at the consolidated level automatically. The G-SII or O-SII buffer applies at the consolidated level if the group is identified as a G-SII or an O-SII in the home Member State. The systemic risk buffer can be recognised by the relevant authority in the home Member State to apply at the consolidated level.

<sup>33</sup> **EBA Guidelines of 16 December 2014 on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10).**

<sup>34</sup> According to notifications received in 2018, 70 O-SIIs were part of cross-border group where the controlling entity was located in another Member State and was in most cases also identified as an O-SII or G-SII. Only two O-SIIs were subsidiaries of an institution which had not been identified as an O-SII or G-SII. For further details, see Section 2.7 of the **Review of macroprudential policy in the EU in 2018**.

<sup>35</sup> The EBA Guidelines on criteria for the assessment of O-SIIs define “relevant authorities” as “authorities designated by Member States pursuant to Article 131(1) of Directive 2013/36/EU”.

<sup>36</sup> See Section 5, “Summary of the ‘review by peers’ phase”, and Annex 5, “Summary table of good practices” of the **Final Peer Review Report** on the peer review of the Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs), November 2017.

<sup>37</sup> *ibid.*



### **Some further inconsistencies can also be identified in the regulatory framework for O-SIIs.**

Depending on the institutional set-up at national level, different institutions might decide on significance of branches for different purposes.<sup>38</sup> This can result in a situation where a foreign branch might qualify as an O-SII in the host market but might not be identified as a significant branch according to Article 51 of the CRD IV<sup>39</sup>. Nevertheless, the question of whether a foreign branch fulfils the criteria to be identified as an O-SII is relevant when assessing whether the branch is significant-plus. Also, the status of an O-SII does not ensure that the foreign branch will be considered relevant in the resolution plan according to the Bank Resolution and Recovery Directive (BRRD)<sup>40</sup>.

## **Strengthening the reciprocity framework**

**The macroprudential policy of the host country might also need to rely more on reciprocity in cases where foreign branches have a significant share in the local market.** The Capital Requirements Regulation (CRR)<sup>41</sup> prescribes mandatory recognition in the application of risk weights and criteria and the higher minimum loss given default (LGD) values to exposures secured by immovable property.<sup>42</sup> Mandatory reciprocity is also established in the CRD IV and applied to the countercyclical capital buffer (CCyB) up to the level of 2.5%. Furthermore, voluntary reciprocation is provided for in respect of national macroprudential measures introduced under Article 458 of the CRR and the systemic risk buffer. For any other measures, whether these are measures regulated by Union law (Pillar 2<sup>43</sup>, O-SII buffers) or non-harmonised measures (such as loan-to-value (LTV) and debt-to-income (DTI)), there are no reciprocity arrangements, and some of the tools might even not be available in the reciprocating countries.<sup>44</sup>

**Therefore, strong policy coordination is necessary to ensure that national macroprudential policy remains effective and does not create negative spillovers to other jurisdictions.** Given its mandate, the ESRB actively assesses national macroprudential measures, analyses potential cross-border effects, and recommends reciprocity to mitigate the risk of circumvention. Since its inception, the ESRB has advocated that the scope for reciprocity be enhanced and mandatory reciprocity be further developed and extended, especially regarding exposure-based measures.

<sup>38</sup> The competent authority is responsible for declaring a branch significant according to Article 51(1) of the CRD IV or significant-plus according to the EBA Guidelines on supervision of significant branches (EBA/GL/2017/14). The designated authority identifies O-SIIs, while the resolution authority defines what critical functions are performed by a particular branch.

<sup>39</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (Text with EEA relevance) (OJ L 176, 27.6.2013, pp. 338-436).

<sup>40</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

<sup>41</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance) (OJ L 176, 27.6.2013, p. 1).

<sup>42</sup> Articles 124(5) and 164(7) of the CRR.

<sup>43</sup> Please note that Pillar 2 will no longer be available for macroprudential purposes once Directive (EU) 2019/878 is transposed and applicable.

<sup>44</sup> Depending on the national legal framework, non-harmonised measures could be applied to all credit providers in the jurisdiction and, consequently, would not require reciprocation. Nonetheless, strong cooperation is needed in supervising compliance by institutions, including foreign branches, with these measures.



## 4 Avenues for the exchange of information on foreign branches

This chapter discusses the concepts of “significant and significant-plus branches” and “branches relevant for financial stability” as well as the existing legal framework as regards the collection and exchange of information on branches between relevant authorities<sup>45</sup>. It then goes on to describe the information available for foreign branches and the potential need for the exchange of information on foreign branches for macroprudential purposes. Finally, it proposes a way forward for building such a framework.

**Authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks need appropriate, accurate and timely information to carry out their tasks.** This information is vital for the identification, assessment and monitoring of systemic risk as well as for the calibration of macroprudential instruments. The ESRB has recommended that macroprudential authorities should have the power to require and obtain in a timely fashion all national data and information that are relevant for them to perform their tasks.<sup>46</sup> As mentioned in Chapter 3, this power should also include requiring and obtaining information on foreign branches. However, as a branch does not constitute a separate legal entity and is fully dependent on its parent institution, the prudential supervision of branches falls under the responsibility of the home competent authority. Consequently, host competent authorities are entrusted only with limited powers regarding branches, including the collection of information from them.

### 4.1 “Significant” and “significant-plus” branches versus branches relevant for financial stability

**The existing regulatory framework defines mechanisms for the exchange of information between competent authorities regarding foreign branches, on the basis of their significance in the host Member State.** Article 51 of the CRD IV, Commission Delegated Regulation (EU) No 2016/98<sup>47</sup>, Commission Implementing Regulation (EU) No 2016/99<sup>48</sup> and the EBA Guidelines on supervision of significant branches<sup>49</sup> lay down the framework for the exchange of information on significant and significant-plus branches among competent authorities supervising institutions with significant branches in other Member States. Article 51 of the CRD IV envisages

<sup>45</sup> “Relevant authority” means an authority entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks, including analysis supporting macroprudential policy decisions. This includes, but is not limited to, designated authorities in accordance with Title VII, Chapter 4 of the CRD IV and Article 458 of the CRR, the ECB under Article 9(1) of the SSM Regulation and macroprudential authorities with the objectives, arrangements, powers, accountability requirements and other characteristics set out in Recommendation ESRB/2011/3.

<sup>46</sup> Sub-recommendation C(2) of Recommendation ESRB/2011/3.

<sup>47</sup> Commission Delegated Regulation (EU) No 2016/98 of 16 October 2015 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for specifying the general conditions for the functioning of colleges of supervisors (OJ L 21, 28.1.2016, p. 2).

<sup>48</sup> Commission Implementing Regulation (EU) No 2016/99 of 16 October 2015 laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors according to Directive 2013/36/EU of the European Parliament and of the Council (OJ L 21, 28.1.2016, p. 21).

<sup>49</sup> **Guidelines on supervision of significant branches (EBA/GL/2017/14)**, 16 February 2018.



that competent authorities must establish colleges of supervisors in cases where Article 116 of the CRD IV does not apply.

**Article 51 of the CRD IV describes the procedure to be carried out by competent authorities in order to classify branches of credit institutions from another Member State as**

**“significant”**.<sup>50</sup> The procedure always begins with a request from the competent authorities of the host Member State to the consolidating supervisor or to the competent authorities of the home Member State. The request must provide reasons for considering the branch to be significant with particular regard to the following:

- (a) whether the market share for the branch in terms of deposits exceeds 2% in the host Member State;
- (b) the likely impact of suspension or closure of the operations of the institution on systemic liquidity and the payment, clearing and settlement systems in the host Member State;
- (c) the size and the importance of the branch in terms of number of clients within the context of the banking or financial system of the host Member State.

**The criteria, stated in Article 51 of the CRD IV, for identifying a significant branch are complemented by additional criteria for classifying significant branches as “significant-plus”**.<sup>51</sup>

To that end, the consolidating supervisor and the competent authorities of the home and host Member States should carry out a common assessment (called an “intensification test”) to classify a branch as significant-plus. A significant-plus branch satisfies the following conditions:

- (a) it fulfils the significance criteria according to Article 51 of the CRD IV;
- (b) it performs critical functions in accordance with the BRRD;
- (c) it is important for the institution or for the group, or it is of significant importance to the financial stability of the host Member State where the branch operates.

**However, the exchange of information on branches is not limited to the framework envisaged by Article 51 of the CRD IV, which refers solely to significant branches.**

Article 50(1) of the CRD IV lays down a principle of cooperation via exchange of information concerning several factors including those that may influence the systemic risk posed by institutions operating, in particular through a branch, in one or more Member States other than that in which their head offices are situated. Appropriate information-sharing mechanisms are therefore warranted to ensure effective identification, assessment and monitoring of cross-border vulnerabilities.

**Foreign branches can also be systemically relevant in the host Member State, although they cannot be identified as O-SIIs according to Article 131 of the CRD IV.**

According to Article 131(1) of the CRD IV, competent or designated authorities in Member States can only identify institutions authorised within their jurisdiction as O-SIIs. Nevertheless, according to the EBA

<sup>50</sup> The designation of a branch as being significant shall not affect the rights and responsibilities of the competent authorities under the CRD IV.

<sup>51</sup> Section 4.2 of the EBA Guidelines on supervision of significant branches (EBA/GL/2017/14).



Guidelines on criteria for the assessment of O-SII identifications<sup>52</sup> competent or designated authorities should include the indicator values of branches of institutions authorised in Member States or third countries in the denominators for the scoring process, while ensuring that scores reflect the Member State's banking sector adequately. Some branches could also meet the criteria used to determine O-SIIs. In addition, national resolution authorities or the Single Resolution Board can determine that some foreign branches perform critical functions in the host Member State.<sup>53</sup> As the responsibility lies with different institutions, there is no assurance that such branches will be identified as significant branches by competent authorities.

**It can be argued that a branch could also be relevant for financial stability if it has a substantial share not only in deposits but also in exposures in the host Member State.** The criteria for a significant branch according to Article 51 of the CRD IV are based on a 2% market share in terms of deposits in the host Member State. A branch might not collect a significant share of deposits in the host Member State but could have a substantial share of exposures in a specific market segment. The exposure classes to which a systemic risk buffer may apply according to the amended Article 133(5) of the CRD IV<sup>54</sup> seem to be a suitable candidate for a criterion to determine whether a branch is relevant for financial stability. A 2% threshold similar to the threshold applied for deposits in the definition of a significant branch in Article 51 of the CRD IV could be chosen for such a criterion. On the other hand, other thresholds could be envisaged as well. For example, the EBA Guidelines on criteria for the assessment of O-SIIs include a threshold of 350 basis points as a cut-off score for identifying O-SIIs. However, for consistency reasons, it seems preferable to have a single threshold harmonised at 2%.

**In the absence of a common definition of what a “branch relevant for financial stability” is in Union law, relevant authorities should be able to apply a broad definition based on different criteria.** A branch of a credit institution having its head office in another Member State or in a third country could be considered relevant for financial stability for example where:

- (a) it is designated as a significant branch according to Article 51 of the CRD IV;
- (b) it fulfils the criteria to be identified as an O-SII according to Article 131 CRD IV within the host Member State;
- (c) it provides critical functions in accordance with Article 2 paragraph 1(35) and paragraph 2 of the BRRD;

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<sup>52</sup> **Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10).**

<sup>53</sup> See Art. 8 (2) of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1); Art 7(1)(b) of Commission Delegated Regulation (EU) No 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges (Text with EEA relevance) (OJ L 184, 8.7.2016, p. 1); Single Resolution Board (2016); Single Resolution Board (2019); and the Annex to the BRRD.

<sup>54</sup> As amended by Directive (EU) 2019/878.



- (d) the branch has a market share exceeding 2% of the following exposures located in the host Member State as set out in the new Article 133(5) of the CRD IV<sup>55</sup>:
- all exposures; or
  - all retail exposures to natural persons which are secured by residential property; or
  - all exposures to legal persons secured by mortgages on commercial immovable property; or
  - all exposures to legal persons excluding those secured by mortgages on commercial immovable property; or
  - all exposures to natural persons excluding those secured by residential property.

## 4.2 Currently available information on branches

**While some information on foreign branches is already collected by central banks or competent authorities or exchanged between competent authorities, it is not considered to be sufficient in all cases for macroprudential policy.** This section describes the available information on foreign branches. Section 4.3 below describes the most important information on foreign branches that authorities entrusted with financial stability and macroprudential policy tasks in host Member States may need to exercise their tasks.

**National central banks in the euro area are obliged to collect information on branches of credit institutions that have their head office outside that territory as part of the statistical information collected from monetary and financial institutions (MFIs).**<sup>56</sup> MFIs consolidate for statistical purposes the business of all their domestic offices (registered or head office and/or branches) located in the same Member State. However, no consolidation for statistical purposes is permitted across national boundaries. The following information should be collected by central banks in the euro area according to harmonised methodologies:<sup>57</sup>

- balance sheet (monthly and quarterly stocks) with breakdowns by maturity, currency, sector and residency of counterparties;
- revaluation adjustments for the compilation of transactions with write-offs/write-downs of loans and price revaluation of securities;
- statistical reporting requirements for loan securitisations and other loan transfers with breakdowns by maturity and sector and residency of the counterparty;
- a summary of breakdowns for the purposes of the aggregated balance sheet of the MFI sector.

<sup>55</sup> As amended by Directive (EU) 2019/878.

<sup>56</sup> See Regulation (EU) No 1071/2013 of the European Central Bank of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector (recast) (ECB/2013/33) (OJ L 297, 7.11.2013, p. 1).

<sup>57</sup> See Annex I to Regulation (EU) No 1071/2013.



**Union law<sup>58</sup> provides for a regular exchange of information between competent authorities with regard to foreign branches (see Table 1 for an overview).** Home and host competent authorities should collaborate closely and supply one another with all information likely to facilitate the monitoring of institutions having branches in another Member State. In particular, such information includes the management and ownership of institutions with branches and liquidity, solvency, deposit guarantee, the limiting of large exposures, other factors that may influence the systemic risk posed by the institution, administrative and accounting procedures, and internal control mechanisms. The home competent authority provides information on the group to the host competent authority, while the host competent authority provides information on the activities of the branch to the home competent authority.

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<sup>58</sup> In particular the CRD IV, Commission Delegated Regulation (EU) No 524/2014 of 12 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the information that competent authorities of home and host Member States supply to one another (OJ L 148, 20.5.2014, p. 6) and Commission Implementing Regulation (EU) No 620/2014 of 4 June 2014 laying down implementing technical standards with regard to information exchange between competent authorities of home and host Member States, according to Directive 2013/36/EU of the European Parliament and of the Council (Text with EEA relevance) (OJ L 172, 12.6.2014, p. 1).



Table 1

## Overview of information exchanged between home and host competent authorities

Template concerning information on	Frequency	Flow of information	Branches for which the information is exchanged	Information exchanged	Availability in reporting
<b>Liquidity</b>	Semi-annual	From home to host	All branches	- LCR in domestic and material currencies	COREP
				- NSFR in domestic and material currencies	COREP
				- components of the institution's liquidity buffer	COREP
				- encumbered and non-encumbered assets and collateral	COREP
				- loan-to-deposit ratio	FINREP
				- domestic liquidity measures	COREP
				- material deficiencies in an institution's liquidity risk management and any related supervisory measures taken	
				- any specific liquidity requirements applied in accordance with Article 105 of the CRD IV	
- obstacles to cash and collateral transfer to or from branches of an institution					
<b>Capital</b>	Annual	Home to host	All branches	- the own fund requirements laid down in Article 92 of the CRR	COREP
				- any additional own fund requirements imposed (Pillar 2)	COREP
				- the capital buffer requirements	COREP
		Significant branches	- the institution's Common Equity Tier 1 capital ratio	COREP	
			- the institution's Tier 1 capital ratio	COREP	
			- the institution's total capital ratio	COREP	
			- the institution's total risk exposure amount	COREP	
			- the own funds requirements including any Article 458 of the CRR measures	COREP	
			- the level of the capital conservation buffer	COREP	
			- the level of any institution-specific CCyB	COREP	
			- the level of any systemic risk buffer, for significant branch	COREP	
			- the level of any G-SII buffer or O-SII buffer	COREP	
			- the level of any additional own funds requirements (Pillar 2)	COREP	
<b>Deposit guarantee schemes</b>	Annual	From home to host	All branches	- the maximum coverage of the deposit guarantee scheme per eligible depositor;	
				- the scope of coverage and the types of deposits covered	
				- any exclusion from the coverage, including products and types of depositors	
				- funding arrangements of the deposit guarantee scheme, in particular whether the scheme is funded ex ante or ex post, and the volume of the scheme	
				- contact details of the administrator of the scheme	



Template concerning information on	Frequency	Flow of information	Branches for which the information is exchanged	Information exchanged	Availability in reporting
<b>Cross-border service providers</b>	Annual and on request	From home to host		<ul style="list-style-type: none"> <li>- non-compliance with Union or national law</li> <li>- the volume of deposits taken from residents of the host Member State</li> <li>- the volume of loans provided to the residents of the host Member State</li> <li>- the form and significance of activities in host Member State</li> </ul>	
<b>Branch-specific template</b>	Annual	From host to home	All branches	<ul style="list-style-type: none"> <li>- the market shares of the branch in loans as well as in deposits if greater than 2%</li> <li>- the identification of systemic risks posed by the branch or its activity in the host Member State</li> <li>- the obstacles to cash and collateral transfer to or from the branch</li> </ul>	
<b>Management and ownership of individual institutions, planning and emergency situations</b>	Annual	Between home and host	All branches  Significant branches	<ul style="list-style-type: none"> <li>- organisational structure of an institution including its business lines and its relationships to entities within the group</li> <li>- preparations for emergency situations, in particular contact details and procedures</li> <li>- the structure of the management body and senior management, including the allocation of responsibility for the oversight of a significant branch</li> <li>- the list of shareholders and members with qualifying holdings</li> <li>- the liquidity and funding policy of the institution, including descriptions of the funding arrangements for its branches, any intragroup support arrangements, and procedures for centralised cash pooling</li> <li>- the liquidity and funding contingency plans of the institution, including information on the assumed stress scenarios for a significant branch</li> </ul>	
<b>In the case of liquidity stress</b>	When triggered	From home to host	All branches	<ul style="list-style-type: none"> <li>- immediately inform about liquidity stress occurred or reasonably expected to occur</li> <li>- description of the situation</li> <li>- measures taken or planned</li> <li>- the results of assessments of the systemic consequences of the liquidity stress</li> <li>- the latest available quantitative information regarding liquidity</li> </ul>	
<b>Non-compliance and designation</b>	When triggered	Between home and host	All branches	<ul style="list-style-type: none"> <li>- non-compliance with large exposures limits, accounting standards and procedures, internal controls, leverage ratio requirement, Union or national law</li> <li>- administrative penalties, supervisory measures, criminal penalties</li> <li>- designation as a G-SII or O-SII</li> </ul>	

Sources: Commission Implementing Regulation 620/2014, Commission Delegated Regulation (EU) No 2016/98 and Commission Implementing Regulation (EU) No 2016/99.



**In addition, the EBA Guidelines on supervision of significant branches specify a more detailed information exchange requirement with regard to significant-plus branches<sup>59</sup>.** These EBA Guidelines build further on the baseline described above to enhance coordination of supervisory activities and ensure an adequate flow of information regarding significant-plus branches. The home authority should ensure that the group assessment risk report or the Supervisory Review and Evaluation Process (SREP) report are complemented by an annex making a “distinct and noticeable reference to the supervisory assessment of any significant-plus branch”.

**While a separate risk assessment of the branch should be included in the group’s risk report and SREP, a separate internal capital and liquidity assessment of the branch is not required.** These reports should include an assessment of the material risks that the branch is or might be exposed to, the branch’s business model and strategy, and the risks that the branch poses to the financial system in the host Member State, i.e. the branch risk assessment (Section 5.1.34 of the EBA Guidelines on supervision of significant branches). The branch risk assessment includes in particular an assessment of the risk that the branch may pose to the financial system of the host Member State and the macroeconomic environment in which the branch operates (Section 5.1.37 of the EBA Guidelines on supervision of significant branches). In addition, the institution’s internal capital adequacy and internal liquidity adequacy should duly cover significant-plus branches and adequately reflect their risks exposures, as well as the capital and liquidity allocated to cover those risks.

**As a minimum, the branch risk assessment should include the outcomes of an assessment of the following elements based on the input provided by the host competent authority collected as part of the statistical and financial stability reporting referred to in Articles 40 and 52 of the CRD IV:**

- branch-specific business model and strategy and its role/position within the business model and strategy of an institution;
- branch-specific governance, risk management controls, and the extent to which the branch is integrated into the internal governance and institution-wide controls of the institution;
- material risks to capital, liquidity and funding that the branch is or might be exposed to;
- the risk that the branch may pose to the financial system of the host Member State;
- the macroeconomic environment in which the branch operates.

**The consolidating supervisor and the home and host competent authorities of the significant-plus branch should share, by making available on their own initiative or upon request, all the information pertaining to the group, the institution or the branch that is adequate, accurate and relevant for the branch’s effective and efficient supervision.** As a minimum, they should at least share, in a proportionate and appropriate manner, adequate information on the following items:

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<sup>59</sup> Significant-plus branches are significant branches in accordance with Article 51 of the CRD IV that, in the light of a common assessment carried out by competent authorities (i.e. an “intensification test”), are deemed “significant-plus” for the purposes of the EBA Guidelines on supervision of significant branches (EBA/GL/2017/14).



- internal and, where available, external audit reports and the institution’s internal risk reports focusing on the branch’s position within the institution and on the risks taken by the institution through the significant-plus branch;
- liquidity reports from the institution collected in accordance with Article 415 of the CRR;
- any relevant information that either the home or host competent authority obtained from the institution while developing the branch risk assessment;
- reports summarising the findings of on-the-spot checks and inspections of the branch undertaken focusing on the branch’s position within the group and on the risks taken by the institution through the significant-plus branch;
- information on branch-specific supervisory and other measures taken or planned by the consolidating supervisors or the home competent authority;
- any precautionary measures taken by the host competent authority based on Article 43 or Article 50(4) of the CRD IV;
- information on upcoming major changes affecting the branch, such as changes in the IT system or business model of the institution, and any relevant business continuity and contingency arrangements;
- information regarding operational events, including any substantial faults or disruptions in services provided to customers, in payment services or in IT systems insofar as relevant to the branch, including cyber or information security attacks and threats, as well as disruptions or faults damaging or jeopardising the capacity of the branch to continue its business activities or fulfil its obligations as a payment systems and payment services provider;
- information regarding strategies or business plans relating to the future operations of the branch, including but not limited to any offering of significant new products or services not covered by Article 39 of the CRD IV;
- documentation emanating from the application of Articles 143, 151(4) and (9), 283, 312 and 363 of the CRR;
- information relevant to the assessment of the group recovery plan or the institution’s plan.

**Furthermore, Union law provides for the competent authorities to ask for additional information on an ad hoc basis.**<sup>60</sup> However, the qualified interest of competent authorities in accessing further sets of information should be grounded on the likelihood of such information to facilitate “the supervision or monitoring of an institution, the examination of the conditions for the authorisation of an institution or the protection of the stability of the financial system”. In other words, the public interest in sharing supervisory information with the host competent authority is not presumed and must be demonstrated on a case by case basis. If the requested information is not available, the competent authority receiving such a request should inform the competent authority making the request that the information is not available.

<sup>60</sup> Article 5 of Commission Implementing Regulation (EU) 620/2014.



**In addition, the obligation of professional secrecy established under Article 53 of the CRD IV and the limitation of using the information for specific purposes established under Article 54 of the CRD IV should not preclude the exchange of information between competent authorities and authorities or bodies charged with responsibility for maintaining the stability of the financial system in Member States through the use of macroprudential rules in the discharge of their supervisory functions.** Under Article 56(b) of the CRD IV, this information may also be exchanged for macroprudential purposes.<sup>61</sup> However, this legal provision does not give rise to a general obligation for the competent authority to share confidential information with an authority entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks. Such an obligation might exist under national law or following (non-legally binding) voluntary interinstitutional arrangements between relevant authorities, such as Memoranda of Understanding<sup>62</sup>.

**Finally, it is not clear whether, under the CRD IV, bodies charged with responsibility for maintaining the stability of the financial system in Member States or other authorities acting on their behalf can collect information exclusively for macroprudential purposes, including information that is not yet available to competent authorities.** In fact, under Article 40 of the CRD IV<sup>63</sup>, competent authorities of host Member States may require that all credit institutions having branches within their territories report to them periodically on their activities taking place in their territories. This reporting is carried out for statistical and information purposes, for identifying significant branches, and for supervisory purposes of the competent authority of the host Member State. It seems that competent authorities currently collect only a limited set of information from branches (see Table 1 above). When debating whether Article 40 of the CRD IV would be a sound legal basis for collecting information also for macroprudential purposes, the drafting team reached the following three possible interpretations.

- The information collected in accordance with Article 40 of the CRD IV may include information that is relevant not only for microprudential supervision, but also for macroprudential supervision. Article 40 refers only to “supervisory purposes”, without giving further clarification, and this can be understood in a broader sense to include the purposes of *macroprudential supervision*.<sup>64</sup>

<sup>61</sup> Article 56 of the CRD IV has been amended to include additional authorities able to engage in the exchange of information, such as the authorities responsible for supervising the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 pursuant to Article 3 of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43) (fifth AML Directive).

<sup>62</sup> It is to be noted that national law should still be in line with professional secrecy and confidentiality rules under Union Law.

<sup>63</sup> Article 40 reads as follows: “The competent authorities of the host Member States may require that all credit institutions having branches within their territories shall report to them periodically on their activities in those host Member States. Such reports shall only be required for information or statistical purposes, for the application of Article 51(1), or for supervisory purposes in accordance with this Chapter. They shall be subject to professional secrecy requirements at least equivalent to those referred to in Article 53(1). The competent authorities of the host Member States may in particular require information from the credit institutions referred to in the first subparagraph in order to allow those competent authorities to assess whether a branch is significant in accordance with Article 51(1).”

<sup>64</sup> The position argued here is that “supervisory purposes” corresponds to a broad definition of “prudential supervision”, such as that offered in Lackhoff (2017), p. 27: “(...) Prudential supervision pursues the objective to ensure the functioning and stability of the banking sector by, as a rule, aiming to ensure the stability and functioning of individual credit institutions. But it also includes macro-prudential rules which are directly aiming at ensuring this objective.”



- Article 40 of the CRD IV allows for *competent authorities* to collect information for the performance of their own tasks, which could be of a microprudential or macroprudential nature. However, it would not be a sufficient legal basis for competent authorities to collect information for the sole benefit of macroprudential authorities and without any connection to the tasks of the competent authority as defined in their statutory law or relevant applicable legal acts.
- Article 40 of the CRD IV allows for host competent authorities to collect information from banks only for the specific microprudential purposes listed therein.

**Given the different existing interpretations, it is not clear whether Article 40 of the CRD IV allows for competent authorities to collect information from branches for macroprudential purposes.** The drafting team also explored the possibilities offered by the current letter of Article 43 of the CRD IV, which establishes the power of the competent authorities of the host Member State, in (i) emergency situations, (ii) pending measures by the competent authorities of the home Member State or (iii) reorganisation measures referred to in Article 3 of Directive 2001/24/EC, to take any precautionary measures necessary to protect against *financial instability* that would seriously threaten the collective interests of depositors, investors and clients in the host Member State. However, the same arguments as those described above for Article 40 of the CRD IV could be invoked. In addition, it seems that the application of Article 43 of the CRD IV is limited to the specific cases listed therein. Here, too, the scope of Article 43 of the CRD IV could benefit from clarification as to whether it grants macroprudential authorities the power to require information in those cases from competent authorities.

**The recent amendments to CRD IV by Directive (EU) 2019/878<sup>65</sup> expanded the scope of the information that can be collected from branches of credit institutions having their head office in a third country, thereby recognising the need to have sufficient information on these types of branches.** With the insertion of paragraph 1a, Article 47 of the CRD IV is amended to specify the following minimum set of information to be collected from branches of credit institutions having their head office in a third country:

- the total assets corresponding to the activities of the branch authorised in that Member State;
- information on the liquid assets available to the branch, in particular availability of liquid assets in Member State currencies;
- the own funds that are at the disposal of the branch;
- the deposit protection arrangements available to depositors in the branch;
- their risk management arrangements;
- the governance arrangements, including key function holders for the activities of the branch;
- the recovery plans covering the branch; and

<sup>65</sup> Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (Text with EEA relevance) (OJ L 150, 7.6.2019, p. 253).



- any other information considered by the competent authority necessary to enable comprehensive monitoring of the activities of the branch.

Although this amendment is welcome, it might not be sufficient to cover the needs of relevant authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks. In addition, amendments to the CRD IV by Directive (EU) 2019/878 do not clarify the interpretative issues identified in this section.

### 4.3 Additional information on branches for macroprudential purposes

**The list below provides examples of the information that authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in host Member States need the most in order to exercise these tasks. This information should be available on request and on a need-to-know-basis.** In principle, the same information should be available for branches of credit institutions having their head office in another Member State as for those having their head office in a third country. Authorities might then require additional information to fulfil their tasks.

**The first part of the list comprises data at branch level.** Some basic information is needed for all branches, while more detailed information is needed for branches relevant for financial stability. The basic information in points 1 to 4 might be needed on a quarterly basis for all branches since the implementation of certain macroprudential tools, such as the CCyB, require an assessment of systemic risks on a quarterly frequency. More detailed breakdowns might also be needed on a quarterly frequency for branches relevant for financial stability in the host Member State. The information in point 5 should be collected at least on an annual frequency for all branches. Ideally, a harmonised list of data points should be established. The list should distinguish between, on the one hand, the basic data points to be reported by all branches and, on the other hand, the more detailed data points to be reported by branches relevant for financial stability. If a common understanding of this kind is developed, a request for such information might not need to include reasoning as to why such information is required by authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks. At the same time, it is expected that it will not be possible for all data items to be harmonised – owing, for example, to different national definitions of borrower-based measures.

**The second part of the list comprises data on the parent institutions of branches relevant to financial stability in the host Member State.** One possibility is for these data to be provided to the competent authority of the host Member State by the competent authority of the home Member State in order to avoid any potential information asymmetry. In turn, the competent authority of the host Member State would distribute these data to authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member State. Another option could be that home competent authorities would provide necessary information directly to the host authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks. Data at the group level could be exchanged upon request, annually for branches relevant to financial stability in the host Member



State and quarterly for significant-plus branches according to the EBA Guidelines on supervision of significant branches.

**The items in the list below are partially consistent with the data already collected or exchanged between competent authorities of home and host Member States.** The necessary branch-level information is partially available to host competent authorities<sup>66</sup> or national central banks (monetary statistics). Although a comprehensive survey of data available for host competent and designated or macroprudential authorities is needed in order for general statements to be made, there may be authorities that have been using a wider set of data than the items listed below (for instance, the authorities in Hungary have been monitoring branch-level composite indicators on foreign exchange and funding mismatches and liquidity risk). In addition, most of the information required at group level is currently exchanged according to the implementing technical standards (ITS) that deal with the functioning of colleges of supervisors<sup>67</sup>. However, certain additional information may also be necessary in addition to the data currently collected or exchanged. Authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks should use existing information to the extent possible and seek information from other relevant authorities in the host Member State before requesting collection of information from credit institutions that is not available to any authority in the host Member State.

**If the required information is not already available to any relevant authority, such information should be collected by a relevant authority and shared with the other authorities entrusted with financial stability and macroprudential policy tasks, as appropriate.** Member States should have flexibility to design the national information flows. In line with the existing home/host tasks regarding data collection, branch-level data could be collected by relevant authorities of the host Member State and group-level data by relevant authorities of the home Member State. The possible flow of data is as follows.

- Direct data collection by the authority entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks – for example, if the authority has already the right to collect for branch-level information, or if it is within a competent authority or a national central bank.
- Data collection by the competent authority or a national central bank upon request of the authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks. It is important to have the mechanisms in place to ensure that, should the need arise, at least some predefined, relevant set of the most necessary information will be available to the authority entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks.

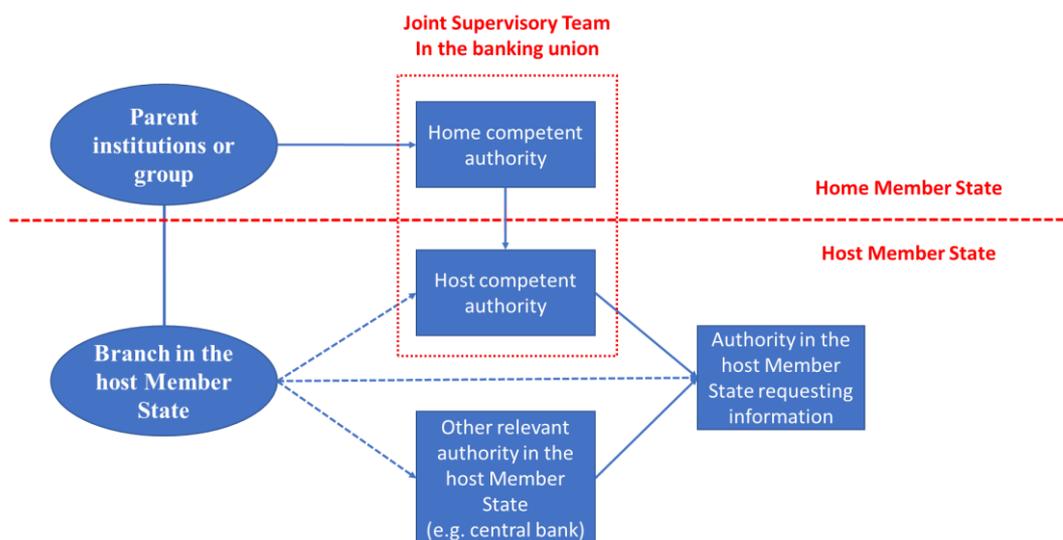
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<sup>66</sup> Information collected under Article 40 of the CRD IV or according to Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (Text with EEA relevance) (OJ L 191, 28.6.2014, p. 1).

<sup>67</sup> Commission Implementing Regulation (EU) No 620/2014 of 4 June 2014 laying down implementing technical standards with regard to information exchange between competent authorities of home and host Member States, according to Directive 2013/36/EU of the European Parliament and of the Council (OJ L 172, 12.6.2014, p. 1).



Figure 1  
Possible channels for information flows



Note: The solid lines indicate the flow of information, while the dashed lines indicate potential options for Member States for designing new data collections, if necessary.

## Examples of information needed on the activities of the branch

1. **Assets with breakdowns** by counterparty type (such as retail, non-financial corporations (NFCs), credit institutions and other financial institutions), type (such as debt securities, commitments, guarantees, mortgage loans, loans collateralised by commercial property, consumer loans, derivatives), maturity (original and remaining), interest rate fixation, currency and interest rates.

Branches can be significant players on the lending market in a given jurisdiction. When assessing the level of cyclical risks (for reasons including a decision regarding the CCyB), the development of loans and other loan-type financing granted by the banking sector is one of the key indicators to be followed. Moreover, it is important to follow the development of loans granted to different segments, in order to identify whether the growth stems from lending to households, to NFCs or to subsegments within these groups of borrowers or intermediated lending to other financial institutions financing real economic segments.

Other breakdowns are also necessary for the day-to-day work of authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks to assess the level of possible systemic risks in the entire banking sector (for example, the development of loans granted to more procyclical NFC sectors, the development of loans in foreign currencies if relevant, interest rate risk, etc.).



For euro area countries, this information should be partially available from national central banks that provide data for the compilation of the BSI – Balance Sheet Items statistics<sup>68</sup>.

2. **Loans with a breakdown for calibration or follow-up purposes in the event that borrower-based measures or other tools** requiring such data are to be implemented or are in place; for example, information according to ESRB Recommendation 2016/14 on closing real estate data gaps<sup>69</sup>.

Where borrower-based measures are applied or are planned to be applied by the authority entrusted with financial stability and macroprudential policy (limits on LTV, DTI, DSTI, etc.), it is important to ensure they are calibrated properly and that all institutions are complying with the limits. These measures are usually also binding for branches granting loans in a given country. It is important that authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks have the right breakdown of the data to be able first to set and second to monitor compliance with the limits. Relevant authorities should have the right to determine the details of the data requirements.

3. **Liabilities with breakdowns** by counterparty type (such as households, NFCs, credit institutions and other financial institutions), type (such as deposits, debt securities, derivatives), currency, interest rates and maturity (original and residual).

Branches can be significant deposit takers and systemically important intermediaries in the interbank and money markets in a given country. It is well known that credit growth supported by foreign funding and at an excessive maturity mismatch can amplify the financial cycle. This is particularly important for branches of credit institutions having their head office in a third country or for branches outside the banking union. For the assessment of possible systemic risks at the banking sector level (interest rate risk, contagion risk of bank run, possible increase of the level of competition, etc.) it is necessary to have a proper breakdown of the deposits of the branches as well.

For euro area countries, this information should be partially available from national central banks that provide data for the compilation of the BSI – Balance Sheet Items statistics.

4. **Report on intrafinancial institutions** (credit institutions and other financial institutions) domestic currency and foreign exchange loan and deposit volumes and interest rates offered by the branch, as well as interbank overnight loan and deposit interest rates offered by the branch.

Necessary for the monitoring of contagion risk within the host financial system in the event that the branch or the parent group runs into difficulties. This information is also necessary to analyse the risk of systemic disruptions in money, foreign exchange, credit, derivative or other financial markets.

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<sup>68</sup> The **manual on MFI balance sheet statistics** states in Section 2.2 (p. 10) that resident credit institutions include resident branches.

<sup>69</sup> Recommendation of the European Systemic Risk Board of 31 October 2016 on closing real estate data gaps (ESRB/2016/14) (OJ C 31, 31.1.2017, p. 1).



5. **Information necessary for O-SII identification** (mandatory and optional indicators) as requested or deemed necessary by the relevant authority in the host Member State in accordance with the EBA Guidelines on criteria for the assessment of O-SIIs.

Regarding O-SII indicators, Title II, point 11 of the EBA Guidelines on criteria for the assessment of O-SIIs states:

"Relevant authorities should include the indicator values of branches of institutions authorised in Member States or third countries in the denominators for the scoring process, while ensuring that scores reflect the Member State's banking sector adequately. Alternatively, relevant authorities should consider including in the sample a virtual entity with the estimated sum of the indicator values of these foreign branches when calculating the scores."

This means that the O-SII indicators mentioned in the EBA Guidelines on criteria for the assessment of O-SIIs should also be available for branches, at least as proxies. Moreover, the information on whether the branch would be identified as an O-SII if it were a subsidiary is also important for the identification of significant-plus branches. This information is needed to prevent cases where a branch might be set up as a substitute for a subsidiary to take advantage of regulatory arbitrage.

Proxy variables should be partially available for euro area countries from national central banks that provide data for the compilation of the BSI – Balance Sheet Items statistics.

## Examples of information needed on the parent institution of the branch

6. **Own funds and leverage.**

The current capital requirements, including Pillar 2 requirements, as well as the current capital ratio for the whole banking group are essential for the authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member State. The authorities need this information to assess the impact of the group's activities, via its branches, on systemic risk in the host country, or to evaluate the potential effects of the implementation of macroprudential measures (e.g. activating or releasing the CCyB in an upward/downward part of a credit cycle). Available research on cross-border banks suggests that banking groups with weak solvency are less willing or able to support their branches' operations in other countries in the event of a shock to the group or in the host country. This is why capital adequacy information for the group is essential information from a macroprudential point of view for assessing potential deleveraging risk stemming from branches in the host economy. Likewise, the geographical breakdown of the banking group's risk-weighted exposures is necessary information for assessing the effects of releasing the CCyB. Similarly, during a boom this information will be essential for authorities entrusted with financial stability and macroprudential policy tasks in the host Member State to assess whether a banking group has more scope for credit expansion in the host country than in other countries.

As these data are already collected by home competent authorities for inclusion in COREP templates, sharing the data with authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member State should



not add any additional reporting burden for the institutions. In addition, the items in points (d) and (i) and the total capital buffer requirement are already exchanged between competent authorities of the home and host Member States annually for all branches, and the items in points (a) to (i) are already exchanged for significant branches. The list below ((a) – (j)) should be considered a minimum list of COREP information to be made available to an authority entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member State. The information should be exchanged on the parent institutions at the highest (sub-)consolidated level of the parent group. It should be exchanged quarterly with all relevant macroprudential authorities of Member States that are hosts to significant and/or significant-plus branches.

- (a) CET1 ratio
- (b) Total capital ratio
- (c) Total risk exposure amount
- (d) Own funds requirement
- (e) Level of required capital conservation buffer
- (f) Level of any institutional-specific CCyB
- (g) Level of any systemic risk buffer
- (h) Level of any G-SII or O-SII buffer
- (i) Level of any additional own funds requirements (Pillar 2 requirement)
- (j) Geographical breakdown of the banking group's risk exposure amounts in the host country or, where this information is not available, risk exposure amounts related to the branch.

7. **The Pillar 2 capital guidance for the group, the supervisory risk assessment for significant-plus branches, the outcome of the supervisory stress testing regarding capital, institutions' voluntary capital holdings above the combined buffer requirements**, i.e. management buffer, and potential supervisory actions should banks fail to meet supervisory expectations on the desired level of capital.

The banking group's voluntary holding of capital in excess of the minimum requirements (management buffer) and the group's compliance with supervisory expectations via Pillar 2 guidance are also necessary information for assessing a banking group's lending capacity in the host country. In line with the reasoning behind point 6 above, these softer capital requirements can also influence both the host branch's impact on systemic risk and the way it will respond to (de)activation of macroprudential instruments, such as a release of the CCyB.

In the EBA Guidelines on supervision of significant-plus branches, home competent authorities are asked to ensure that the group assessment risk report or the SREP report is accompanied by a separate risk assessment of significant-plus branches, including an assessment of the material risks that the branch is or might be exposed to, the branch's business model and strategy, and the



risks that the branch poses to the financial system in the host Member State. Such information should also be shared with authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member State upon request.

#### 8. **Data on funding and liquidity risk.**

For banking groups with a centralised funding structure, the funding situation of the group will affect the branch's lending capacity and its resilience in cases of financial stress. The information requirement for macroprudential purposes can be seen as twofold. First, in normal times, basic information about the bank's funding profile, including information about the degree of maturity transformation, and regulatory liquidity metrics are needed for authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member State to make a general assessment of the risk profile and the resilience of the branch and its potential reaction to stress. Second, in times of crisis, authorities entrusted with financial stability and macroprudential policy tasks will probably need more extensive and granular information since the liquidity situation of the group will be an important factor for assessing potential effects on the domestic credit supply. This might also have implications for the assessment of the potential effects of changing the CCyB requirements or other macroprudential instruments. Additional information requests on funding and liquidity that might be requested in times of crisis should be designed according to the specific situation and the characteristics of the individual institution.

As the information requested is already collected by the competent authority of the home Member State, sharing it with authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member State should not add any additional reporting burden for the institutions. The items listed in points (a) to (c) are already exchanged semi-annually between competent authorities of the home and host Member State.

- (a) LCR in domestic and material currencies
- (b) NSFR in domestic and material currencies
- (c) Loan-to-deposit ratio

#### 9. **Information about the banking group's strategy and in particular its relevance for financial stability in the host country; selected information from the banking group's recovery plans that relates to its activities in the host country.**

Since a recovery plan is primarily set up by the banking group, this plan for the banking group's activities can contain information on the degree of emphasis that the group's management puts on the group's banking activities in the host country during difficult periods. Such information is also essential for the authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in the host Member States in assessing the effects of releasing the CCyB or adjusting other macroprudential instruments in a downturn.

For significant-plus branches, the information should also include the details from the branch risk assessment, namely:



- branch-specific business model and strategy and its role/position within the business model and strategy of an institution;
- branch-specific governance, risk management controls, and the extent to which the branch is integrated into the internal governance and institution-wide controls of the institution;
- material risks to capital, liquidity and funding that the branch is or might be exposed to;
- the risk that the branch may pose to the financial system of the host Member State.

In the EBA Guidelines on supervision of significant-plus branches, home competent authorities are asked to ensure that the group assessment risk report or the SREP report is accompanied by a separate risk assessment of significant-plus branches including an assessment of the material risks that the branch is or might be exposed to, the branch's business model and strategy, and the risks that the branch poses to the financial system in the host Member State. Such information should also be shared with relevant macroprudential authorities in the host Member State upon request.

## 4.4 Specificities of the banking union

**In the particular context of the banking union, the ECB is the competent authority in the participating Member States for credit institutions that are classified as significant, according to Article 6(4) of the SSM Regulation<sup>70</sup> and according to the SSM Framework Regulation<sup>71</sup>.** The SSM Regulation entrusts the ECB with supervisory tasks regarding significant and less significant credit institutions established in Member States participating in the Single Supervisory Mechanism (SSM). In particular, according to Article 4(1)(b) of the SSM Regulation, where credit institutions established in a participating Member State wish to establish a branch in a non-participating Member State, the ECB is in charge of carrying out the tasks entrusted to the competent authority of the home Member State under the relevant Union law, namely the CRD IV. Moreover, under Article 4(2) of the SSM Regulation, for credit institutions established in a non-participating Member State which establish a branch in a participating Member State, the ECB shall carry out the tasks entrusted to the host authorities under the CRD IV.

**As regards branches, the supervisory responsibilities of the ECB and national competent authorities are allocated on the basis of the significance of the entities that fall within the scope of the SSM.<sup>72</sup>** Branches in participating Member States of credit institutions established in non-participating Member States are considered supervised entities<sup>73</sup>, and the ECB has direct supervisory competence in respect of those branches that are significant<sup>74,75</sup>. Meanwhile, national

<sup>70</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

<sup>71</sup> Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities, (OJ L 141, 14.5.2014, p. 1).

<sup>72</sup> The significance of entities for the purpose of this section is as defined under Article 6(4) SSM Regulation, and not as defined under Article 51 of the CRD IV.

<sup>73</sup> Article 2(20) of the SSM Framework Regulation.

<sup>74</sup> Article 6(4) of the SSM Regulation.

<sup>75</sup> See Lackhoff (2017), p. 139.



competent authorities are responsible for directly supervising entities that are less significant, subject to the ECB's power to decide in specific cases to directly supervise such entities where necessary for the consistent application of supervisory standards.<sup>76</sup> Similarly, branches of significant credit institutions in other participating Member States are directly supervised by the ECB, while branches of less significant credit institutions in other participating Member States are supervised by national competent authorities.

Branches established in participating Member States by a credit institution (parent institution) established in a third country are not subject to ongoing supervision by the ECB.

**The significance of supervised entities and in particular the significance of branches is primarily assessed according to the following criteria set out in Article 6(4) of the SSM Regulation, adding an additional layer of complexity to the criteria laid down in the CRD IV:<sup>77</sup>**

- (i) size;
- (ii) importance for the economy of the Union or any participating Member State;
- (iii) significance of cross-border activities;
- (iv) a request for or the receipt of direct public financial assistance from the European Financial Stability Facility or the European Stability Mechanism);
- (v) the fact that the parent institution is one of the three most significant credit institutions in a participating Member State.

**Under Article 14 of the SSM Framework Regulation, the ECB exercises the powers of the competent authority of the host Member State where a branch is significant.<sup>78</sup>** To this end, the CRD IV allows the ECB to address a request to the home authority for a foreign branch to be considered as significant. In addressing the request, the ECB shall provide reasons for considering the branch to be significant with particular regard to the criteria set out in the CRD IV as explained above.

**Under the SSM legal framework<sup>79</sup>, both the ECB and national competent authorities are subject to an obligation to exchange information.** Without prejudice to the ECB's power to directly receive information reported by credit institutions, or to have direct access to that information, on an ongoing basis, the national competent authorities should specifically provide the ECB with all information necessary for the purposes of carrying out the tasks conferred on the ECB under the SSM Regulation. Additionally, in the event that the ECB receives information directly from legal or natural persons, it shall make the information available to the national competent authorities concerned.<sup>80</sup> In this regard, Regulation ECB/2015/13<sup>81</sup> sets out the requirements

<sup>76</sup> Where a branch is less significant within the meaning of Article 6(4) SSM Regulation, the national competent authority of the participating Member State where the branch is established shall exercise the powers of the competent authority of the host Member State.

<sup>77</sup> The specific methodology and procedure for classifying a supervised entity as significant or non-significant are set out in the SSM Framework Regulation, as required by Article 6(7) of the SSM Regulation.

<sup>78</sup> In accordance with Article 6(4) of the SSM Regulation.

<sup>79</sup> Article 6(2) of the SSM Regulation and Article 21 of the SSM Framework Regulation.

<sup>80</sup> Article 10(1) and Article 10(3) of the SSM Regulation.



concerning significant and less significant supervised entities, including branches established in a participating Member State by a credit institution established in a non-participating Member State and which are therefore subject to the ECB's supervisory powers under Article 6(4) of the SSM Regulation.<sup>82</sup> These requirements are aimed at ensuring that supervised entities report a common minimum set of information to national competent authorities and not at imposing uniform reporting requirements.<sup>83</sup>

Nevertheless, branches established in a participating Member State by a credit institution from another participating Member State are excluded from these reporting requirements since they are intended to be applied at the level of the supervised entity that has established the branch.<sup>84</sup> In the context of the reporting obligations set out in Regulation ECB/2015/13, it should be noted that, depending on their size, branches are exempted from reporting financial information. In particular, a branch established in a participating Member State by a credit institution established in a non-participating Member State shall not be included in the reporting of supervisory financial information if the total value of its assets is below €3 billion.<sup>85</sup>

**As mentioned above, with regard to the supervisory tasks conferred on the ECB under Article 4(2) and Article 6(4) of the SSM Regulation, foreign branches established in a participating Member State by a credit institution from a third country are not within the supervisory tasks conferred on the ECB (ongoing supervision).** As a result, these branches are also not subject to the reporting requirements set out in Regulation ECB/2015/13. In addition, as regards the supervisory tasks conferred on the ECB under Article 4(1)(b) of the SSM Regulation, branches in non-participating Member States of credit institutions established in participating Member States are not obliged to meet any of the reporting requirements laid down in Regulation ECB/2015/13.

**For each significant supervised credit institution operating within participating Member States, the SSM Framework Regulation provides for the establishment of Joint Supervisory Teams (JSTs).** JSTs are composed of staff members from the ECB and from national competent authorities, including those in the participating Member States with a branch established by the significant institution. A core JST is established for institutions with a significance presence in more than one Member State, comprising ECB staff members and national sub-coordinators for these Member States. The tasks of JSTs include (i) performing the SREP, (ii) preparing and implementing the supervisory plan, (iii) ensuring coordination of on-site inspections and (iv) liaising with national competent authorities. All available information on the institution or the group is shared among JST members. Nevertheless, the ECB is responsible for agreeing to share this information with other relevant authorities.

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<sup>81</sup> Regulation (EU) 2015/534 of the European Central Bank of 17 March 2015 on reporting of supervisory financial information (ECB/2015/13) (OJ L 86, 31.3.2015, p. 13).

<sup>82</sup> And therefore the information reported under this Regulation should afterwards be provided by the national competent authorities to the ECB, under the cooperation arrangements set out in Article 6(2) of the SSM Regulation.

<sup>83</sup> Recital (9) of Regulation ECB/2015/13.

<sup>84</sup> Recital (8) of Regulation ECB/2015/13.

<sup>85</sup> Article 13(7) of Regulation ECB/2015/13. In this regard, it should also be noted that, according to paragraph 8 of the same Article, the total value of the assets of the supervised entity shall be the value used for determining whether or not a supervised entity is significant on the basis of its size, in accordance with Title III of Part IV of the SSM Framework Regulation.



**The SSM Regulation also provides for cooperation procedures between the ECB and the competent authorities of non-participating Member States.** Such authorities should conclude an MoU describing in general terms how they will cooperate with one another in the performance of their supervisory tasks under Union law in relation to institutions falling within the scope the SSM Regulation. The MoU could, inter alia, clarify the consultation relating to decisions of the ECB having effect on branches established in the non-participating Member State by credit institutions established in a participating Member State and the cooperation in emergency situations, including early warning mechanisms in accordance with the procedures set out in relevant Union law. The Memorandum should be reviewed on a regular basis.<sup>86</sup>

**Procedures for the exchange of information on foreign branches for purposes related to macroprudential oversight are more limited.** According to Recital (16) of the SSM Regulation, recent experience shows that smaller credit institutions can also pose a threat to financial stability. Consequently, the ECB should be able to exercise supervisory tasks in relation to all credit institutions authorised in, and branches established in, participating Member States. Other than that, authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks are not explicitly considered in the existing framework of the SSM Regulation and the SSM Framework Regulation regarding information exchange procedures at branch level for the purposes of macroprudential oversight. Nevertheless, regardless of the absence of an explicit reference among the ECB's supervisory tasks, information relevant for the tasks related to macroprudential stability laid down in Article 5 of the SSM Regulation should be considered as being in line with the principle of sincere cooperation set out in Article 3(1) of the SSM Regulation and Article 1(4) of the ESRB Regulation.

**Notwithstanding the above, the existing legal framework does not explicitly envisage information exchange arrangements for branches concerning authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks.** In addition, the macroprudential procedures referred to in Articles 5(1) and (2) of the SSM Regulation shall not constitute ECB or national competent authority supervisory procedures under the SSM Framework Regulation.<sup>87</sup> This means that the information exchange procedures envisaged in the relevant Union law for the performance of the tasks of the ECB and national competent authorities should not apply to the macroprudential tasks laid down in the SSM Regulation.

## 4.5 Way forward

### 4.5.1 Colleges of supervisors

**Union law provides for colleges of supervisors which are meant to facilitate the cross-border exchange of information and the coordination of supervisory action.** While authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial

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<sup>86</sup> Recital 14 of the SSM Regulation.

<sup>87</sup> Article 101(2) of the SSM Framework Regulation.



stability tasks could also benefit from the use of these platforms, colleges of supervisors are a coordination vehicle primarily designed for facilitating the exercise of cross-border microprudential supervisory tasks within a banking group. They are established on the basis of Article 116 or 51 of the CRD IV. Further operational details of the functioning of colleges of supervisors are set out in Commission Delegated Regulation (EU) No 2016/98 and Commission Implementing Regulation (EU) No 2016/99. Meanwhile, Commission Implementing Regulation (EU) No 710/2014<sup>88</sup> provides for information regarding the coordination and the exchange of information between the consolidating supervisor and the relevant competent authorities for reaching a joint decision on the adequacy of own funds.

The membership of the supervisory colleges is specified in Article 3 of Commission Delegated Regulation (EU) No 2016/98 and includes the following authorities:

- competent authorities of home and host Member States responsible for the microprudential supervision of the parent institution and its subsidiaries as well as competent authorities of host Member States where significant branches are established;
- ESCB central banks, if they are involved in prudential supervision of the above-mentioned entities (but which are not considered competent authorities according to the national law);
- the EBA.

Furthermore, at the invitation of the consolidating supervisor, the following authorities may participate in the college meetings as observers:

- competent authorities of host Member State where non-significant branches are established;
- supervisory authorities of third countries where institutions or branches are established;
- ESCB central banks which are not involved in prudential supervision;
- public authorities or bodies which are responsible for or involved in the supervision of a group entity, including authorities responsible for the supervision of markets in financial instruments, the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or consumer protection.

**Competent authorities that are members or observers of supervisory colleges participate in dedicated meetings or joint activities and have the opportunity to discuss relevant information as well as to be informed on supervisory practices.** According to Article 112(1)(a) of the CRD IV, the consolidating supervisor shall coordinate the gathering and dissemination of relevant or essential information in going concern and emergency situations. It is important to note that the term “competent authority” is defined in Article 4(1) point 40 of the CRR as a public authority or body officially recognised by national law, which is empowered by national law to supervise institutions as part of the supervisory system in operation in the Member State concerned. These are clearly authorities responsible for microprudential supervision.

<sup>88</sup> Commission Implementing Regulation (EU) No 710/2014 of 23 June 2014 laying down implementing technical standards with regard to conditions of application of the joint decision process for institution-specific prudential requirements according to Directive 2013/36/EU of the European Parliament and of the Council (Text with EEA relevance) (OJ L 188, 27.6.2014, p. 19).



**While the participation of authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in college activity is not explicitly provided for, the competent authority of the home Member State can, under certain conditions, invite other authorities deemed relevant to participate as observers in colleges of supervisors.** In practice, competent authorities have been able to invite all authorities deemed relevant to colleges. Explicitly listing relevant authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks as potential observers of colleges of supervisors in Commission Delegated Regulation (EU) No 2016/98 could provide greater certainty in this regard.

**Under Article 3(5) of Commission Delegated Regulation (EU) No 2016/98, it is up to college members to discuss and agree on the scope and level of involvement of observers, if any, of the college.** Such agreement includes the degree of participation in the various dialogues and processes of the college and their rights and obligations with regard to exchanging information within the boundaries and procedures set by Commission Delegated Regulation (EU) No 2016/98 and Commission Implementing Regulation (EU) No 2016/99, respectively. In accordance with the above legal acts, the written coordination and cooperation arrangements under the agreement should clearly state the framework applicable to the participation of these observers and should be communicated to them.<sup>89</sup> Some information on the credit institution to which the branch belongs and which is shared in colleges of supervisors may be relevant for macroprudential purposes. In this regard, it would be beneficial if relevant authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks were invited to discussions of specific topics of macroprudential interest in colleges of supervisors.

**In addition, it should be noted that Article 51(3) of the CRD IV envisages the establishment of colleges of supervisors in cases where the branch in question is considered significant, and where such colleges of supervisors have not already been created in line with Article 116 of the CRD IV.** Competent authorities of host Member States where non-significant branches are established may be invited to participate in the college as observers, in line with Article 3(2) of Commission Delegated Regulation (EU) No 2016/98. Colleges of supervisors may potentially be used for information-sharing for macroprudential purposes in the case of non-significant branches.

**The consolidating supervisor shall chair the college established in accordance with Article 116 of the CRD IV.** The national competent authorities of the participating Member States where the parent institution, subsidiaries and significant branches under Article 51(1) of the CRD IV are established should have the right to participate in the college as observers. If there is no college established in accordance with Article 116 of the CRD IV, and a credit institution has significant branches in other Member States, the competent authority of the home Member State is required to establish a college of supervisors with the national competent authorities of the host Member States.<sup>90</sup> However, for significant institutions operating within participating Member States and

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<sup>89</sup> The written coordination and cooperation arrangements shall at least include the elements indicated in Article 5 of Commission Delegated Regulation (EU) No 2016/98, among which are: a description of the arrangements for exchanging information including their scope, frequency and channels of communication; a description of the arrangements for the treatment of confidential information; and the agreed procedures and deadline to be followed for the circulation of the meeting documents.

<sup>90</sup> Article 51(3) of the CRD IV.



having no subsidiaries or significant branches in non-participating Member States, no colleges of supervisors are established.

## 4.5.2 Memoranda of Understanding

**Relevant authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks could be granted access to information on foreign branches through a voluntary exchange of information based on a mutual agreement between authorities.** Such agreements are usually governed by an MoU specifying the details of the data to be exchanged. Being voluntary and legally non-binding arrangements, MoUs are, however, not enforceable by the authorities or bodies that do not participate in the MoU and cannot override the national legislation or applicable Union legislation.

**Well-designed and efficient information-sharing arrangements on foreign branches can facilitate the tasks of host authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks in several fields, including in the areas of risk analysis, reciprocity and supervision of measures.** Importantly, as the sharing of information with authorities within the colleges is contingent on the approval of home authority, discretion and uneven implementation at the national level might obstruct the fulfilment of the host authorities' statutory tasks. The cooperation and the goodwill of home authorities, potentially with coordination at a wider regional or even EU level, might reduce the complexity and costs of information-sharing arrangements in this regard.

**The Nordic-Baltic Macroprudential Forum (NBMF), along with the existing MoU for financial stability in the Nordic-Baltic region, could be considered as a benchmark for a close regional cooperation between macroprudential authorities.** The NBMF regularly discusses financial stability risks in the Nordic and Baltic area and in specific countries, as well as macroprudential measures and their reciprocation as a means of addressing these risks and enhancing regional coordination. The NBMF is a regional cooperation body set up in 2011 which brings together central bank governors and heads of supervisory authorities. The preparatory work for the NBMF is carried out by financial stability experts who participate in the expert groups assembled for that purpose.

**The MoU on supervision of significant branches in the Nordic-Baltic region provides an example of the development of a coordination framework intended to facilitate cooperation between competent authorities in the region.** Given the presence of a number of significant branches of several large Nordic banking groups in Denmark, Finland, Norway and Sweden, Finanstilsynet (Denmark), Finanssivalvonta (Finland), Finanstilsynet (Norway), Finansinspektionen (Sweden) and the ECB signed an MoU in December 2016 with the objective of stepping up the collaboration between the supervisors of the host and home Member States.<sup>91</sup> In June 2017, the MoU was also signed by the competent authorities of Estonia, Iceland, Latvia and Lithuania. The MoU includes a general principle of full reciprocity, principles of cooperation between home and host supervisors, and standards for the exchange of information.

<sup>91</sup> Memorandum of Understanding between Finansinspektionen, Finanstilsynet, Finanstilsynet, Finanssivalvonta and the European Central Bank on prudential supervision of significant branches in Sweden, Norway, Denmark and Finland (<https://www.finanstilsynet.dk/~media/Om-os/2016/mou-filialer-nordiske-lande-2016-12-19n.pdf?la=da>)



## 5 Conclusions

The following conclusions may be drawn from the previous chapters.

**Foreign branches vary in size and significance among the Member States. Nevertheless, information on these branches is deemed to be important from a financial stability perspective in a number of EU Member States.** The set of information proposed in this report is considered necessary so that authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks are able to fulfil their mandate, thus improving the effectiveness of macroprudential policy.

**Union law allows the exchange of currently available information.** Such an exchange can also take place between competent authorities and authorities or bodies charged with responsibility for maintaining the stability of the financial system in Member States in performing their supervisory functions.

**However, Union law does not provide a clear framework for the collection and exchange of currently unavailable information between relevant authorities for macroprudential purposes.** Since existing Union law includes provisions on the exchange of information for microprudential purposes, a revision of Union law could be considered so as to also include macroprudential aspects.

**While certain information on branches shared in the colleges of supervisors can be relevant for macroprudential purposes, the existing mechanism for sharing information on supervised credit institutions through colleges of supervisors does not explicitly envisage the participation of authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks.** Although the colleges of supervisors focus on the objectives of microprudential supervision, other authorities can, in principle, be invited to participate in meetings of supervisory colleges, provided that all college members agree. In this regard, it would be beneficial if relevant authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks were invited to take part in discussions that are of macroprudential relevance. The explicit inclusion of such relevant authorities among the potential observers of colleges of supervisors in Commission Delegated Regulation (EU) No 2016/98 could provide greater certainty on this role.

**Authorities entrusted with the adoption and/or activation of macroprudential policy measures or other financial stability tasks could be granted access to information on foreign branches. This could be best achieved through a well-designed and efficient voluntary exchange of information based on a mutual agreement between authorities within the existing legal framework.** Such agreements are usually governed by an MoU specifying the details of the data to be exchanged. However, this exchange of information could also be conducted without any such arrangements.



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# Abbreviations

## Countries

<b>BE</b>	Belgium	<b>CY</b>	Cyprus	<b>SK</b>	Slovakia
<b>BG</b>	Bulgaria	<b>LV</b>	Latvia	<b>FI</b>	Finland
<b>CZ</b>	Czech Republic	<b>LT</b>	Lithuania	<b>SE</b>	Sweden
<b>DK</b>	Denmark	<b>LU</b>	Luxembourg	<b>UK</b>	United Kingdom
<b>DE</b>	Germany	<b>HU</b>	Hungary	<b>IS</b>	Iceland
<b>EE</b>	Estonia	<b>MT</b>	Malta	<b>LI</b>	Liechtenstein
<b>IE</b>	Ireland	<b>NL</b>	Netherlands	<b>NO</b>	Norway
<b>GR</b>	Greece	<b>AT</b>	Austria	<b>CH</b>	Switzerland
<b>ES</b>	Spain	<b>PL</b>	Poland	<b>CN</b>	China
<b>FR</b>	France	<b>PT</b>	Portugal	<b>JP</b>	Japan
<b>HR</b>	Croatia	<b>RO</b>	Romania	<b>US</b>	United States
<b>IT</b>	Italy	<b>SI</b>	Slovenia	<b>TK</b>	Turkey

## Other

<b>BIS</b>	Bank for International Settlements	<b>ITS</b>	implementing technical standard
<b>BRRD</b>	Bank Recovery and Resolution Directive	<b>JST</b>	Joint Supervisory Team
<b>CBD</b>	Consolidated Banking Data	<b>IWG</b>	Instruments Working Group
<b>CCyB</b>	countercyclical capital buffer	<b>LCR</b>	liquidity coverage ratio
<b>CEE</b>	central and eastern Europe	<b>LGD</b>	loss given default
<b>CET1</b>	Common Equity Tier 1	<b>LTV</b>	loan-to-value
<b>CRD IV</b>	Capital Requirements Directive	<b>MFI</b>	monetary financial institution
<b>CRR</b>	Capital Requirements Regulation	<b>MoU</b>	Memorandum of Understanding
<b>DGS</b>	deposit guarantee scheme	<b>NBMF</b>	Nordic-Baltic Macroprudential Forum
<b>DTI</b>	debt-to-income	<b>NFC</b>	non-financial corporation
<b>DSTI</b>	debt service-to-income	<b>NSFR</b>	net stable funding ratio
<b>EBA</b>	European Banking Authority	<b>O-SII</b>	other systemically important institution
<b>EBRD</b>	European Bank for Reconstruction and Development	<b>SREP</b>	supervisory review and evaluation process
<b>ECB</b>	European Central Bank	<b>SSI</b>	Structural Statistical Indicators
<b>EIB</b>	European Investment Bank	<b>SSM</b>	Single Supervisory Mechanism
<b>ELA</b>	emergency liquidity assistance		
<b>ESCB</b>	European System of Central Banks		
<b>ESRB</b>	European Systemic Risk Board		
<b>EU</b>	European Union		
<b>GDP</b>	gross domestic product		
<b>G-SII</b>	global systemically important institution		
<b>IMF</b>	International Monetary Fund		



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