EBA/GL/2014/10

16 December 2014

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)

Contents

1. Executive summary

Under Article 131(3) of Directive 2013/36/EU (CRD), the EBA is mandated to issue guidelines to specify the criteria for determining the conditions of the application of that paragraph in relation to the assessment of O-SIIs. These guidelines establish a scoring process for assessing the systemic importance based on the following indicators:

Criterion	Indicators
Size	Total assets
Importance (including substitutability/financial system infrastructure)	Value of domestic payment transactions
	Private sector deposits from depositors in the EU
	Private sector loans to recipients in the EU
Complexity/cross-border activity	Value of OTC derivatives (notional)
	Cross-jurisdictional liabilities
	Cross-jurisdictional claims
Interconnectedness	Intra financial system liabilities
	Intra financial system assets
	Debt securities outstanding

The scores obtained will be used in the first step of a two-step procedure to determine O-SIIs: Institutions with a score equal to or higher than 350 basis points should be automatically designated as O-SIIs. Relevant authorities may raise this threshold up to 425 basis points or decrease it to 275 basis points to take into account the specificities of the Member State's banking sector and the resulting statistical distribution of the scores, thereby ensuring the homogeneity of the group of O-SIIs designated in this way based on the O-SIIs' systemic importance.

In the second step, authorities should assess whether further institutions are so systemically relevant that they should be designated as O-SIIs. When applying this supervisory judgment, they should select the indicators that they consider adequately capture systemic risk in their domestic sector or the economy of the Union. However, institutions with a score not exceeding 4.5 basis points should not be designated as O-SIIs.

To reduce the reporting burden associated with small institutions if the Member State contains a large number of small institutions, Member States' authorities may opt to exclude institutions from the identification process if they assess that these institutions are unlikely to pose systemic threats to the domestic economy.

To ensure a high level of transparency when applying the degree of flexibility provided for in the first step in setting the cut-off score and the supervisory overlay in the second step, authorities are required to publicly disclose the reasons why they make use of the option to raise or lower the cut-off score, where applicable, the scores of relevant entities designated as O-SIIs, and which optional indicator(s) are used to inform the designation of an institution as an O-SII if this institution has a score lower than the chosen cut-off score.

These guidelines do not contain provisions on the requirement to maintain an O-SII buffer pursuant to Article 131(5) of Directive 2013/36/EU.

2. Background and rationale

These guidelines specify the criteria for determining the conditions of the application of Article 131(3) of Directive 2013/36/EU in relation to the assessment of O-SIIs. The guidelines take into account international frameworks for domestic systemically important institutions, in particular the framework for domestic systemically important banks (D-SIBs) published by the Basel Committee on Banking Supervision (BCBS) in October 2012. The BCBS framework specifies 12 principles related to the assessment of D-SIBs and the resulting higher loss absorbency. Although these guidelines are limited to the identification of O-SIIs, they must be read in conjunction with Article 131(5) of Directive 2013/36/EU relating to the higher loss absorbency of O-SIIs: relevant authorities may require each institution identified as an O-SII to maintain an O-SII buffer of up to 2% of the total risk exposure amount, consisting of Common Equity Tier 1 capital. Systemically important institutions can present negative externalities to the broader financial system. In maximising their private benefits, they make rational decisions, which are sub-optimal on a system-wide view because individual institutions may not take into account the externalities these decisions might cause. Not only does this create risks to financial stability, but it also causes market distortions, which can lead to moral hazard. The root cause of moral hazard lies in the assumption of (implicit) government guarantees given to these systemically important institutions, eroding market discipline and stimulating excessive risk taking. These negative externalities can be mitigated by identifying the institutions that are systemic and imposing stricter requirements on these institutions. Therefore, the O-SII buffer focuses on reducing an institution's probability of default, while the identification criteria analyse the impact that a failure of the institution would have on the financial system. The guidelines do not contain provisions on the requirement to maintain an O-SII buffer on a consolidated or sub-consolidated or individual basis, as applicable.

These guidelines should achieve an appropriate degree of convergence in terms of identifying O-SIIs across Member States and making the assessment of O-SIIs comparable, transparent and comprehensible. This is done by setting out a minimum mandatory framework of criteria and indicators that allow the comparison of regulatory and supervisory choices made by relevant authorities. This framework serves as the initial benchmark. Relevant authorities are encouraged to complement this framework with further optional criteria and indicators to reflect the specificities of each national banking sector. In this vein, the methodology strikes a balance between convergence, comparability and flexibility.

The mandatory framework uses criteria and indicators that are chosen to reflect the uniform aspects that generate negative externalities and make a bank critical for the stability of the financial system in all Member States. These uniform aspects are generally universal and are in line with the international view on sources of systemic risk, such as the BCBS D-SIB framework. The framework of mandatory indicators generates a ranking of institutions within a Member State in terms of degree of systemic importance. Institutions above a specified threshold should be automatically designated as O-SIIs. This approach is comparable across countries and serves as the initial benchmark.

In addition to the mandatory framework, supervisory judgment should be used where appropriate to reflect features of the national banking systems, which is particularly important given the divergence across Member States. The supervisory overlay takes the form of an assessment of quantitative and qualitative factors that are specific to the different Member States and, yet, have not been (sufficiently) captured by the cause-effect relationship of the framework. This enables relevant authorities to assess and, if appropriate, capture all but the smallest institutions that they deem systemically important but that are not automatically designated as an O-SII.

To identify O-SIIs, relevant authorities will have to assess the systemic risk. This can be defined as a risk of disruption to financial services that is (i) caused by an impairment of all or parts of the financial system and (ii) has the potential to have serious negative consequences for the real economy. The guidelines ensure, within the mandatory framework, that the most obvious institutions in the EU are identified as O-SIIs. However, systemic risk is not binary by nature as all institutions have a potential impact on the financial system or the real economy. The extent of this impact seems to vary significantly and is closely linked to the banking system within the Member State. Member States that have a very diverse banking system and a less concentrated banking system might identify far more O-SIIs than a Member State that has a very concentrated system. Under the mandatory framework, the threshold of 350 basis points already covers most institutions in a concentrated banking system. The same logic needs to be applied to a less concentrated banking system and holds true vice versa, i.e. a higher number of institutions needs to be identified to cover systemic risk adequately and guard against the negative externalities.

In line with the CRD, banks may be assessed with respect to their degree of systemic importance at the individual, sub-consolidated or consolidated basis. In the scoring in the first step, authorities should assess the institutions at the highest consolidation level: Home authorities should assess banks at the consolidated group level, while host authorities should assess subsidiaries in their jurisdictions at a (sub-)consolidated level to include any of their own downstream subsidiaries. In the further steps, authorities may choose to apply a narrower scope of consolidation where appropriate.

In principle, the reference system for assessing the impact of failure of banks is the domestic economy, as it is expected that this approach automatically captures those banks that are systemically important at Union level. In some cases, it may also be appropriate to assess systemic importance directly at Union level: This is reflected, for instance, in the criterion 'importance for the economy of the relevant Member State or the Union'.

During the first two years, the EBA and relevant authorities should assess mandatory indicators used in the Guidelines. The EBA should conduct a data collection exercise to ensure the quality and consistency of data and to determine if further refinements or changes are needed.

3. EBA Guidelines on the assessment of O-SIIs

Status of these guidelines

This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (the EBA Regulation). In accordance with Article 16(3) of the EBA Regulation, competent authorities and financial institutions must make every effort to comply with the guidelines.

Guidelines set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. The EBA therefore expects all competent authorities and financial institutions to whom guidelines are addressed to comply with guidelines. Competent authorities to whom guidelines apply should comply by incorporating them into their supervisory practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

In accordance with Article 16(3) of the EBA Regulation, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 17.02.2015. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form provided in Section 5 to compliance@eba.europa.eu with the reference 'EBA/GL/2014/10'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities.

Notifications will be published on the EBA website, in line with Article 16(3) of the EBA Regulation.

Title I — Subject matter, scope and definitions

1. The EBA is mandated to publish guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU in relation to the assessment of other systemically important institutions (O-SIIs). In addition, these guidelines contain rules on certain disclosures during the process of the assessment.

2. 'Total assets' has the meaning specified in Annex 1 Table 2.

3. These guidelines are applicable to authorities designated by Member States pursuant to Article 131(1) of Directive 2013/36/EU (the 'relevant authority').

Title II — Scoring methodology for the assessment of the O-SIIs

4. The relevant authority should assess EU parent institutions, EU parent financial holding companies, EU parent mixed holding companies or institutions authorised in their jurisdiction (each a 'relevant entity') each year.

5. The assessment should be conducted on a yearly basis and should comprise two steps. In the first step, relevant authorities should calculate a score for each relevant entity at least at the highest consolidation level of the part of the group that falls under its jurisdiction (i.e. at the level which is not the subsidiary of another entity authorised or domiciled in the same Member State), including subsidiaries in other Member States and third countries, and subject to the optional exclusion pursuant to paragraph 10 where applicable. Without limitation to the previous sentence relevant authorities may additionally apply the methodology specified in these guidelines at other appropriate levels for informing their decision how the O-SII buffer should be calibrated and at which consolidation level it should apply. The scores should reflect the systemic importance of the relevant entity and should be calculated as specified below. The second step should be the supervisory assessment outlined in Title III.

6. The core set of criteria for the scoring of systemic importance should consist of:

   (a) size;

   (b) importance for the economy of the relevant Member State or the Union, capturing substitutability/financial institution infrastructure;

   (c) complexity — including the additional complexities from cross-border activity;

   (d) interconnectedness of the institution or (sub-)group with the financial system.

7. The four criteria each consist of one or more mandatory indicators as set out in Table 1 of Annex 1. All criteria should be weighted equally at a weight of 25%. The indicators within each criterion should be weighted equally relative to the other indicators within the

respective criterion. Relevant authorities should endeavour to use harmonised definitions of these mandatory indicators across Member States, using the implementing technical standard on an EU-wide common supervisory reporting framework following the specifications in Table 2 of Annex 1. If indicator values in accordance with Table 2 of Annex 1 are not available due to the fact that relevant entities, which fall within the scope of Article 131 (1) of Directive 2013/36/EU but do not report in IFRS and to which FINREP requirements do not apply, have a share of total assets that is equal to or higher than 20.0%, relevant authorities should use appropriate proxies. In this case, relevant authorities should ensure that those proxies are properly explained and correlate to the greatest extent possible with the definitions in Table 2 of Annex 1.

8. Relevant authorities should calculate the score by

(a) dividing the indicator value of each individual relevant entity by the aggregate amount of the respective indicator values summed across all institutions in the Member State (the 'denominators');

(b) multiplying the resulting percentages by 10 000 to express the indicator scores in terms of basis points;

(c) calculating the category score for each relevant entity by taking a simple average of the indicator scores in that category;

(d) calculating the overall score for each relevant entity by taking a simple average of its four category scores.

9. Relevant authorities should designate relevant entities with a total score equal to or higher than 350 basis points as O-SIIs. Relevant authorities may raise this threshold up to 425 basis points as a maximum or decrease it to 275 basis points as a minimum to take into account the specificities of the Member State's banking sector and the resulting statistical distribution of the scores, thereby ensuring the homogeneity of the group of O-SIIs designated in this way based on the O-SIIs' systemic importance.

10. Where the Member State's banking system contains a large number of small institutions, relevant authorities may opt to exclude a relevant entity from the identification process if the relative size of this relevant entity measured by its total assets does not exceed 0.02%. When making this decision, the authorities should take into account the reporting burden associated with these relevant entities if they assess that the entities are unlikely to pose systemic threats to the domestic economy. If these entities are excluded from the identification process, the relevant authorities should avoid distortions of the scoring by estimating the indicator values for these relevant entities and including in the sample a virtual entity with the sum of the indicator values of these relevant entities when calculating the scores of the remaining relevant entities. The list of relevant entities should be reviewed each time the identification process is conducted.

11. Relevant authorities should include the indicator values of branches of institutions authorised in Member States or third countries in the denominators for the purpose of 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. In addition, relevant authorities should consider determining scores for third-country branches in accordance with the methodology set out in these guidelines, taking into account (i) the overall relevance of these third-country branches in the domestic banking system and (ii) data availability, comparability and appropriateness regarding third-country branches activity and designating them as O-SIIs, where relevant for the application of prudential requirements.

12. Relevant authorities may exempt investment firms from the application of the above methodology or use a different sample of institutions or an amended set of indicators, to the extent they consider the indicators in Annex 1 or the calculation of denominators based on all institutions to be inappropriate for investment firms. If relevant authorities include investment firms in the assessment, they may identify them as O-SIIs if their score as described in the preceding paragraphs exceeds 4.5 basis points.

Title III — Supervisory assessment of O-SIIs

13. Relevant authorities should assess whether further relevant entities should be designated as O-SIIs based on the indicator scores in any of the categories and/or on additional qualitative and/or quantitative indicators of systemic importance. Relevant authorities should select the indicators that they consider adequately capture systemic risk in their domestic sector or the economy of the Union. Relevant authorities should not designate a relevant entity as an O-SII if its score does not exceed 4.5 basis points. Relevant authorities may assess relevant entities or sub-groups at a consolidated or sub-consolidated or individual basis, as applicable.

14. During their assessment, relevant authorities should only apply indicators listed in Annex 1 or Annex 2 (Optional indicators) selecting the appropriate scope for the indicator where relevant.

Title IV — Disclosure and notification

15. Relevant authorities should publish an outline of the methodology for the supervisory assessment applied during the identification process, including optional indicators, if any, and for setting the buffer requirement. If they make use of the option to raise or lower the threshold mentioned in paragraph 9, relevant authorities should specify the reasons for this amendment and define the specificities of the Member State's banking sector and the resulting statistical distribution of the scores on which this decision is based.

16. Relevant authorities should publish the scores of relevant entities designated as O-SIIs by 1 December of each year. This indicates which banks score above the threshold and are therefore automatically designated as O-SIIs. If applicable, relevant authorities should also publish the buffer requirements that are applied to the different O-SIIs.

17. When a relevant entity with a score of less than the threshold chosen pursuant to paragraph 9 is designated as an O-SII, relevant authorities should publish, for each bank, a brief statement with the following motivation:

    (a) which optional indicator(s) are used to inform the designation as O-SII;

    (b) why this indicator is relevant in the Member State;

    (c) why the bank is systemically important in terms of the particular indicator(s).

18. Relevant authorities should notify to the EBA the names and scores of all relevant entities that are not excluded pursuant to paragraph 10, and the indicator values for institutions subject to supervisory judgment.

Title V — Final provisions and implementation

19. These guidelines apply as of 1 January 2015. Relevant authorities should implement the guidelines by incorporating them in their supervisory procedures within six months after publication on the EBA website.

20. By derogation from point 16, the O-SIIs designated in 2015 and their scores should be published not later than 1 January 2016.

21. During 2015 and 2016, the EBA and relevant authorities should assess mandatory and optional indicators used in these guidelines.

22. These guidelines, in particular the minimum mandatory framework, including the core set of criteria, the mandatory indicators, weights and thresholds, and the scope of the supervisory assessment should be reviewed by 30 April 2016. Progress made in international standards, supervisory reporting and approaches to measure systemic importance should be considered to ensure that the assessment methodology is appropriate.

Annex 1 — Mandatory indicators for the scoring

Table 1

Criterion	Indicators	Weight
Size	Total assets	25.00%
Importance (including substitutability/financial system infrastructure)	Value of domestic payment transactions	8.33%
	Private sector deposits from depositors in the EU	8.33%
	Private sector loans to recipients in the EU	8.33%
Complexity/cross-border activity	Value of OTC derivatives (notional)	8.33%
	Cross-jurisdictional liabilities	8.33%
	Cross-jurisdictional claims	8.33%
Interconnectedness	Intra-financial system liabilities	8.33%
	Intra-financial system assets	8.33%
	Debt securities outstanding	8.33%

Table 2

Indicator	Scope	Definition
Total assets	worldwide	FINREP (IFRS or GAAP) — F 01.01, row 380 column 010
Value of domestic payment transactions	worldwide	Payments made in the reporting year (excluding intragroup payments): This indicator is calculated as the value of a bank's payments sent through all of the main payment systems of which it is a member. Report the total gross value of all cash payments sent by the relevant entity via large value payment systems and the gross value of all cash payments sent through an agent bank (e.g. using a correspondent or nostro account) over the reporting year in each indicated currency. All payments sent via an agent bank should be reported, regardless of how the agent bank actually settles the transaction. Do not include intragroup transactions (i.e. transactions processed within or between entities within the group of

Indicator	Scope	Definition
		the relevant entity). If precise totals are unavailable, known overestimates may be reported. Payments should be reported regardless of the purpose, location or settlement method. This includes, but is not limited to, cash payments associated with derivatives, securities financing transactions and foreign exchange transactions. Do not include the value of any non-cash items settled in connection with these transactions. Include cash payments made on behalf of the reporting entity as well as those made on behalf of customers (including financial institutions and other commercial customers). Do not include payments made through retail payment systems. Only include outgoing payments (i.e. exclude payments received). Include the amount of payments made via CLS. Other than CLS payments, do not net any outgoing wholesale payment values, even if the transaction was settled on a net basis (i.e. all wholesale payments made via large-value payment systems or through an agent must be reported on a gross basis). Retail payments sent via large-value payment systems or through an agent may be reported on a net basis. Please report values in Euro, using the official rate specified in http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm (for monthly rates) or in http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html (for daily rates).
Private sector deposits from depositors in the EU	EU only	FINREP (IFRS or GAAP) → F 20.06, rows 120+130, column 010, EU countries (z-axis)
Private sector loans to recipients in the EU	EU only	FINREP (IFRS or GAAP) → F 20.04, rows 190+220, column 010, EU countries (z-axis)
Value of OTC derivatives (notional)	worldwide	FINREP (IFRS) → F 10.00, rows 300+310+320, column 030 + F 11.00, rows 510+520+530, column 030 FINREP (GAAP) → F 10.00, rows 300+310+320, column 050 + F 11.00, rows 510+520+530, column 030
Cross-jurisdictional liabilities	worldwide	FINREP (IFRS or GAAP) → F 20.06, rows 010+040+070, column 010, All countries except home country (z-axis) Note: The calculated value should exclude i) intra-office liabilities and ii) liabilities of foreign branches and subsidiaries vis-à-vis counterparties in the same host country
Cross-jurisdictional claims	worldwide	FINREP (IFRS or GAAP) → F 20.04, rows 010+040+080+140, column 010, All countries except home country (z-axis) Note: The calculated value should exclude i) intra-office assets and ii) assets of foreign branches and subsidiaries vis-à-vis counterparties in the same host country
Intra-financial system liabilities	worldwide	FINREP (IFRS or GAAP) → F 20.06, rows 020+030+050+060+100+110, column 010, All countries (z-axis)
Intra-financial system assets	worldwide	FINREP (IFRS or GAAP) → F 20.04, rows 020+030+050+060+110+120+170+180, column 010, All countries (z-axis)
Debt securities	worldwide	FINREP (IFRS or GAAP) → F 01.02, rows 050+090+130, column 010

Indicator	Scope	Definition
outstanding		

Annex 2 — Optional indicators

Optional indicator
Total EAD
Total RWA
Off-balance sheet items
Market capitalisation
Total EAD/Member State's GDP
Total Assets/Member State's GDP
Private sector loans*
Mortgage loans*
Business loans *
Retail loans*
Retail deposits*
Deposits guaranteed under deposit guarantee system*
Corporate deposits*
Any deposits*
Number of retail customers*
Share in clearing and settlement system*
Payment services provided to market participants or others*
Assets under custody*
Bond issuance underwriting*
Equity issuance underwriting*
Holdings of domestic bonds
Number of deposit accounts — business*
Number of deposit accounts — retail*
Geographical breakdown of bank's activity
Type of customers*
Level 3 assets
Derivatives (assets and/or liabilities side)
Value of Trading & available for sale securities (taking into account highly liquid assets)
Number of subsidiaries
Number of foreign subsidiaries
Number of jurisdictions active
Degree of resolvability according to the institution's resolvability assessment
Foreign net revenue / total revenue
Non-interest income / total income*
Value of repos
Value of reverse repos
Potential contagion though entities in conglomerate
Potential contagion through shareholders
Potential reputational contagion
Interbank claims and/or liabilities*
Securities lending transactions
Market transaction volumes or values*

Optional indicator
Importance for an IPS of which the entity is a member
Significant issuance of covered bonds
Securitised debt
Payment services provided*
Connectivity to and from foreign banking system
Connectivity to and from foreign non-banks
Assets held for trading

For indicators marked with * relevant authorities may select the appropriate scope (the Member State, the Union, a certain region, worldwide).

4. Accompanying documents

4.1 Cost-benefit analysis / impact assessment

Problem definition

Following the mandate of Article 131(18), the RTS on specifying the methodology for the definition of Global Systemically Important Institutions (G-SIIs) develop the methodology for identifying the EU institutions that could pose a threat to global financial stability and consequently assign them to sub-categories based on their systemic significance. Going further, Article 131(3) mandates the Member States' designated authorities to identify other systemically important institutions (O-SIIs), assessing their systemic importance by taking into account one or more of the criteria listed in that Article. The reference to O-SIIs includes (i) domestic systemically important institutions (institutions that are systemic in a given Member State) or (ii) EU systemically important institutions (institutions that are systemic at EU level without necessarily being systemic at the level of the Member States in which they are active).

Regulatory and specific objectives

As specified in the Level 1 text, the regulatory objective of identifying the O-SIIs is to allow the competent or designated (for the identification of O-SIIs) authorities to require O-SIIs in their jurisdiction to maintain an additional buffer of up to 2% of the total risk exposure amount consisting of Common Equity Tier 1 capital. The additional capital would act as an additional cushion for the stability of individual O-SIIs and the avoidance of consequent 'domino effects' in the national banking systems.

The specific objective intended to facilitate the regulatory objective is the identification of O-SIIs in each Member State's jurisdiction. The decision on setting an O-SII requirement for an institution designated as an O-SII does not fall within the scope of these guidelines. The operational objective that would fulfil the specific objective is setting up the qualitative and/or quantitative criteria and the methodology that would lead to the identification of O-SIIs.

The methodology to be used should leave some room for flexibility to reflect the specificities of individual Member States' banking systems. At the same time, the guidelines should provide boundaries for this flexibility by specifying a minimum framework of criteria, indicators and metrics that allow the comparison of regulatory and supervisory choices made by Member States.

In addition, the methodology should make the assessment of systemic importance transparent, comparable and comprehensible. One way of achieving this would be by assigning scores to banks. The use of national discretion should be documented transparently by means of additional indicators.

Minimum identification criteria

Criteria in Directive 2013/36/EU

Directive 2013/36/EU states that the systemic importance of O-SIIs should be assessed on the basis of at least any of the following criteria:

- size;
- importance for the economy of the Union or of the relevant Member State;
- significance of cross-border activities;
- interconnectedness of the institution or group with the financial system.

In addition, the Level 1 text states that in developing its guidelines, the EBA shall 'take into account international frameworks for domestic systemically important institutions and Union and national specificities'.

BCBS D-SIB principles/criteria

The reference of the CRD to 'international frameworks for domestic systemically important institutions' clearly refers to the BCBS's domestic systemically important banks (D-SIB) principles. There are a number of principles within the BCBS framework that are relevant to the identification of O-SIIs, such as the principle stating that the assessment methodology should reflect the potential impact of the institution's failure on financial stability and the principle stating that authorities should publicly disclose information on the outline of the methodology applied to assess systemic importance. In addition, the principles include the following high-level BCBS D-SIB identification criteria:

- Size;
- Interconnectedness;
- Substitutability/financial institution infrastructure (including considerations related to the concentrated nature of the banking sector); and
- Complexity (including the additional complexities from cross-border activity).

Proposed criteria for EBA guidelines

To ensure that, as specified in the CRD, the internationally agreed framework for D-SIBs is taken into account in the EBA guidelines, it is proposed that the core set of criteria considered in the guidelines consist of:

- size;

- importance for the economy of the relevant Member State, capturing substitutability/financial institution infrastructure (including considerations related to the concentrated nature of the banking sector);
- complexity, including the additional complexities from cross-border activity; and
- interconnectedness of the institution or group with the financial system.

These criteria combine the ones specified in the CRD with the criteria in the BCBS D-SIB principles.

Within this framework, the extent to which an institution's cross-border activities affect its systemic importance in the domestic context could be incorporated into the core set through other indicators, in particular the wider concept of complexity.

Options considered

On 30 October 2013, the EBA held a workshop on current and planned practices for identifying and dealing with domestic systemically important banks (D-SIBs). The objective of the workshop was to share country experiences to assist the EBA work on O-SII guidelines for the identification of these institutions. Examples of some indicators and metrics used in the existing or planned frameworks for addressing these criteria (both within the EU and outside of the EU) are set out in the following table. Looking at the BCBS D-SIB framework, there are no specific indicators proposed for any of the identification criteria. Instead, it is left to the national discretion of each country to choose specific indicators for their jurisdictions. However, the BCBS suggests the size of the domestic economy as a potential way of setting the identification criteria.

Table 1: Examples of metrics used to inform indicators of systemic importance

	BCBS framework for global systemically important banks (G-SIB)	**International regimes for domestic systemically important banks (D-SIB)** (examples from different regimes)
Objective of the regime	*To identify banks systemically important in the global context.*	*To identify banks that are systemically important to that jurisdiction/Member State (MS).*
Indicators		
Size	- Total exposures (as per leverage ratio)	- Absolute measures: • Balance sheet size • Total assets (absolute or risk-weighted) in the MS - Relative measures: • **Total assets/GDP** (e.g. 6.5%) • RWAs/GDP • Market share (assets > 5%) • Market cap/total market cap in the MS • **Total exposure/GDP** • Local deposits (≥ 5%) of total bank deposits in that MS • Local loans (≥ 5%) of total bank loans in that MS

Interconnectedness with the financial system	- Intra-financial system assets - Intra-financial system liabilities - Securities outstanding	- Liabilities: to banks, insurers & other FIs (aggregate or banks only; amounts or market share) - Assets: to credit institutions - Total assets and liabilities to the MS' financial sector - Securitised debt - Debt to other credit institutions/balance sheet
Importance for the economy of the Member State, capturing substitutability/ financial institution infrastructure *(including considerations related to the concentrated nature of the banking sector)*	- Total payment activity (without intragroup payments) - Assets under custody - Total underwriting activity	- <u>Substitutability</u>: • # of indirect payment system participants • # of payment transactions • Value of payment transactions • Share of clearing and/or payment systems - <u>Importance for the economy</u>: • Credit to residents/total credit in MS • Resident deposits/total deposits in MS • Resident contingent liabilities/total contingent liabilities in MS • Type of services/transactions provided • Type of bank's customers • Geographical breakdown of bank's business • Systemic subsidiaries significant to the financial system • Total loans and advances to MS (also subdivided into corporate and retail) - <u>Debt & equity markets</u> • Holdings of domestic bonds • Share in bond issuance underwriting • Share in equity issuance underwriting
Complexity including the additional complexities from cross-border activity	- <u>Complexity</u> • **OTC derivatives (notional)** • Value of trading & AFS securities less stock of HQLA • Level 3 assets - <u>Cross-border activity</u> • **Cross-jurisdictional claims** • **Cross-jurisdictional liabilities**	- Derivatives in trading book (assets and liabilities) - OTC derivatives (notional) - Size of trading book/balance sheet - Share of receivables to foreign banks & non-banks - Share of liabilities to foreign non-banks - # of foreign subsidiaries
Any other measures	- Wholesale funding dependence ratio - Foreign net revenue - Total gross/net revenue - SFTs (gross lent and borrowed at fair value) - Gross +/- fair value of OTC derivatives - # of jurisdictions	- DGS (ex-post) - Time-dependent factors (bank's behavioural reaction) - Reputational contagion (behaviour of third parties)

Quantitative indicators with supervisory overlay

Three options/practices for identification were considered when developing these guidelines:

1. option 1: a mechanical quantitative framework;

2. option 2: a purely qualitative framework; or

3. option 3: a quantitative framework based on a set of mandatory indicators with a role for supervisory overlay.

A mechanical quantitative framework would conflict with the CRD, which provides for a considerable degree of discretion to adjust the methodology to the specificities of each Member States' banking sector. A purely qualitative assessment would lack the transparency and fail to achieve the harmonisation, which are the goals of the CRD and the guideline mandate. There was thus a broad consensus among competent authorities represented at the EBA to pursue the option of a quantitative framework with a role for supervisory overlay. The costs of the two options using quantitative data are similar and depend on the selection of the data. The administrative costs of option 2 might be lower for institutions, depending on the information that authorities would need for the qualitative assessment. However, the potentially higher costs are outweighed by the benefits associated with a higher degree of harmonisation across all Member States.

To achieve the optimal balance between national discretion on the one hand and a meaningful, minimum level of harmonisation on the other hand, it is advisable that the guidelines establish a two-step procedure to establish a balance between mandatory elements and a flexible supervisory overlay. The first step assumes a quantitative framework with a fixed set of mandatory indicators to obtain an initial ranking with a total score for each bank that would indicate its systemic importance in relation to the banking sector in the Member State concerned. Banks with a total score above a certain threshold are automatically designated as O-SIIs. In the second step, national authorities should use a set of optional quantitative and/or qualitative indicators to justify the systemic importance of every bank that has a score lower than this threshold but exceeding a certain lower cut-off score. Banks scoring below this lower cut-off score in the initial ranking are excluded from the supervisory overlay as they are deemed as non-OSIIs.

Cut-off scores in the scoring process

In February and early March 2014, national experts (15 Member States, Iceland and Liechtenstein) carried out a simulation to test a set of mandatory indicators and to calibrate the thresholds mentioned above.

The simulation tested various cut-off scores from 150 basis points to 500 basis points in 50 basis points increments. Based on a cluster analysis and on a manual evaluation of the results, cut-off scores between 300 and 350 basis points produced appropriate results in terms of the overall ratio of O-SIIs to non-O-SIIs within Member States and the distribution of O-SIIs across Member States. Moreover, these cut-off scores meet the experts' expectations based on their supervisory judgment as to which institutions in their jurisdiction should be clearly designated as O-SIIs.

Based on this result of the simulation exercise, the following options for setting the upper cut-off score were considered:

Option 1: a fixed upper cut-off score at 300 basis points

Option 2: a range, within which Member States could determine the cut-off score appropriate to their jurisdiction, between 275 and 425 basis points

Option 1 would result in the highest level of harmonisation and clearly identify a group of 'national champions' in all Member States. Option 2 could avoid imbalances between different banking sectors with different structures where those structural differences would result in disproportionately high scores for medium-sized institutions that in reality are still as important for the domestic financial system as the score indicates.

In view of the CRD’s objective to provide room for adjustments in line with national characteristics, the guidelines provide an upper cut-off score of 350 basis points, which can optionally be increased to 425 basis points or decreased to 275 basis points. The decision to increase or decrease the upper threshold has to be justified, and the reasons should be publicly disclosed.

The administrative costs of both options are identical. The costs of the chosen option in terms of additional capital requirements cannot be predicted with certainty as it is highly dependent on the authorities’ decision regarding which cut-off scores and which additional capital buffer it applies to each O-SII. Given that (i) the assessment methodology does not pre-empt the decision regarding whether to apply an O-SII buffer, (ii) there is the second step of a supervisory overlay following the scoring process and (iii) during the discussions, Member States seemed to be more concerned about the cut-off scores being too low than too high, there is reason to expect that the number of O-SIIs designated under the chosen option, which involves assigning an O-SII buffer, will be identical to or lower than the number that would be designated under Option 1. There would therefore not be any significant increase in capital from the chosen option.

With regard to the appropriate consolidation level, the guidelines determine that the scoring process has to take place at the highest (sub-)consolidation level, as the methodology would be distorted if the appropriate level could for applying the mandatory indicators could be chosen freely. In contrast, relevant authorities are flexible to select the appropriate level for all further steps, so that negative externalities and social costs can be reflected where they are expected to occur.

Entry criterion

The simulation exercise showed that, in many Member States, a large number of small institutions exist that, individually, are unlikely to pose a systemic threat to the domestic economy. To reduce the burden arising from additional reporting requirements for these institutions and the administrative costs for authorities resulting from the assessment of all these institutions, the option to exclude some institutions from the identification process should be explored.

Option 1: all institutions have to be assessed in the exercise.

Option 2: optional entry criterion: relevant authorities may opt to exclude an institution from the identification process if the relative size of this institution measured by its total assets does not exceed 0.01% of the Member State's total banking sector.

Option 3: optional entry criterion: relevant authorities may opt to exclude an institution from the identification process if the relative size of this institution measured by its total assets does not exceed 0.02% of the Member State's total banking sector.

Option 1 would be more favourable if it was necessary to ensure a reliable assessment based on a complete picture of the Member State’s banking sector. However, it is possible to avoid distortions of the sample by alternative means, such as estimating the data and including these institutions virtually in the identification process. Therefore, option 2 is preferable to option 1 as it would result in exempting about 1230 of the 3183 institutions (exemption rate: 38.64%), resulting in 1953 banks taking part in the simulation exercise, thereby reducing the administrative costs. Option 3 increases the number of exempted institutions to 2145 (exemption rate: 67.39%) leaving the national authorities with a sample of 1038 banks. Compared to option 2, this threshold results in further reducing the administrative burden and costs of the national supervisory authorities when assessing the banks, while it maintains the sample of institutions to be evaluated sufficiently representative at EU level. Nevertheless, it is upon the discretion of the national authorities to choose which of thresholds in Options 1 and 2 to use for the evaluation, as they have to ensure that the assessment process is not distorted by the exclusion.

Cost-benefit analysis of the preferred option

The cost-benefit analysis that follows focuses on the costs and benefits that arise from the implementation of the preferred option for the guidelines, without considering the costs and benefits already assessed in the Level I text.

Costs

The additional costs from implementing the guidelines are administrative and comprise the cost of undertaking the scoring process, applying supervisory judgment, producing the list of O-SIIs and preparing the necessary disclosures. Although, due to the lack of data, these costs cannot be expressed in monetary terms, the anticipated time for initially setting up this process is estimated at one to two man hours per O-SII assessed, i.e. one employee dealing with it for one or two hours. However, this will decrease to 0.5 to 1 man hours for every update of the list thereafter, given the experience acquired from the first time that the methodology is applied. The number of EU institutions expected to be assessed under Option 1 of entry criterion is around 9 200 institutions, which would result in an overall anticipated time of 4600 to 9200 man hours in all Member States for the initial setting up and 2300 to 4600 man hours for the updating of the list. For option 2, these figures become 2822 to 5645 man hours for the initial setting up of the list of banks to be assessed and 1411 to 2822 man hours for updating the list. For option 3, these figures become 1500 to 3000 man hours for the initial setting up of the list of banks to be assessed and 750 to 1500 man hours for updating the list.

Options to identify the number of banks to be assessed	**Costs (in man hours)**	
	Initial setting up of the list	Updating of the list
Option 1: 9200 banks	4600 – 9200	2300 – 4600
Option 2: 5645 banks	2822 – 5645	1411 – 2822
Option 3: 3000 banks	1500 – 3000	750 – 1500

Benefits

The benefits result from a higher degree of harmonisation in the assessment of O-SIIs and a convergent and transparent process for designating the O-SIIs. Although the decision regarding the O-SII buffer requirement does not fall within the scope of these Guidelines, there will be an indirect effect, ensuring that there is a higher level of loss absorbing capacity to compensate the increased risk to financial stability resulting from systemically important institutions. Institutions, in particular cross-border groups, profit from a higher degree of transparency and the legal certainty of a harmonised methodology. Regulatory arbitrage based on unintended differences between Member States will be prevented.

4.2 Views of the Banking Stakeholder Group (BSG)

In its comments on the draft guidelines, the BSG welcomed the efforts to ensure coherence between identification methodologies for systemically important banks from a global perspective on the one hand and at a domestic level on the other. The BSG pointed out that the similarities between the identification methodologies of G- and O-SIIs (adaptation of the concepts used in the G-SII identification in the O-SII methodology) strengthen the credibility of the whole framework.

However, the BSG raised concerns that the O-SII framework may imply that a bank faces a higher capital requirement for being systemic at a domestic level than at the global level. To resolve this problem, the BSG suggested that a national authority could set the domestic requirements at the level of individual balance sheets instead of consolidated accounts when the business model of the institution and its resolvability assessment warranted this approach. In addition, the BSG suggested that authorities should define the relationship between the domestic systemic score and the percentage of required capital surcharge.

It should be noted that the setting of the buffer requirement does not fall within the scope of these guidelines. In addition, the possibility that the requested O-SII buffer exceeds the G-SII buffer applicable in an individual case seems to be inherent to the Directive and appears to reflect a choice that the co-legislators intentionally made. Nevertheless, the EBA shares the view that a relationship between the systemic score and the required capital surcharge would be desirable in terms of both the transparency of the decision and harmonisation, and the EBA expects that Member State authorities will reflect this in their decision. Furthermore, optional indicators, including those of a qualitative nature, play an important role in determining domestic systemic relevance. The business model and the resolvability assessment are important examples, which are reflected in the optional indicators in Annex 2 of the guidelines, and as such are welcomed by the BSG. With regard to the appropriate level of consolidation, the EBA considers the (sub-) consolidation of subsidiaries in other Member States as appropriate for two reasons. Firstly, systemic importance should not only be measured on the basis of the importance for the economy of the relevant Member State, but for the Union. Secondly, experience shows that the importance of an entity cannot be assessed without evaluating the entire group. It is not possible to make a general differentiation between the systemic impact of a group structure based on subsidiaries and branches, for example.

With regard to the mandatory indicators, the BSG found the methodology to be sufficiently comprehensive. However, the BSG expressed concerns about the inclusion of cross-border activities, as this indicator is already included in the G-SII methodology and its inclusion in the domestic framework could imply a certain degree of redundancy. In the view of the EBA, the overlap between G-SII and O-SII identification in this regard is justified, as the level-one text specifically refers to cross-border activities. The indicators reflect the role of banks as funding intermediaries, which determines their importance for the real economy in a Member State or the Union. Indicators such as cross-border claims and liabilities capture the capital supply from and to foreign economies, which may be of particular importance in less extended currency areas.

Suggestions from the BSG with regard to specific indicators were shared by individual respondents to the consultation and are discussed in the feedback table below.

In addition to a number of respondents to the consultation, the BSG recommended raising the materiality threshold of 0.01% to 0.1%. A moderate increase of this threshold to 0.02% seems acceptable to the EBA without increasing the risk of distorting the methodology.

Finally, the BSG commented that the list of optional indicators was extensive and offered national supervisors a high level of discretion. Therefore, to ensure there is a level playing field, it suggested that the EBA should target a limited number of optional indicators or at least set a maximum weight that the set of optional indicators can represent in the final systemic risk score. The EBA recognises that optional indicators play a prominent role in the second step of the current methodology. This seems necessary to ensure that national specificities and individual functions that may result in systemic importance can be captured appropriately. However, there may be room for further harmonisation in a review of the methodology based on practical experience gained in its application.

4.3 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period began on 18 July and ended on 18 October 2014. Eleven responses were received, of which eight were published on the EBA website.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases several industry bodies made similar comments or the same body repeated its comments in the response to different questions. In these cases, the comments, and EBA analysis are included in the section of this paper where the EBA considers them most appropriate.

Changes to the draft guidelines have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

Relation to the G-SII framework and setting of the O-SII buffers

Many respondents expressed their support for the efforts made to ensure there is consistency with the BCBS methodology for identifying D-SIBs, as well as with the methodology for identifying G-SIIs, as this contributes to the creation of a level playing field for banks across the Union and worldwide. However, a large number of respondents commented on the setting of O-SII buffers, especially in relation to G-SII buffers. In particular, they argued that for G-SIIs that are also considered as systemic in the home jurisdiction, the additional national buffer should never be higher than the global buffer, as the risk that the failure of an institution could pose to a national economy cannot be greater than the damage that the failure of an institution could pose to the global system.

EBA response

The mandate in Article 131(3) of Directive 2013/36/EU is limited to the assessment of O-SIIs applying the conditions specified in that paragraph. The setting of the buffer requirement pursuant to Article 131(5) to (8) does not fall within the scope of these guidelines. The Directive gives discretion to national authorities to set the buffer requirement. However, authorities are expected to base their decision on the systemic importance of the institution, which is assessed in accordance with the methodology defined in the guidelines.

Consolidation level

Respondents raised concerns that identification will only take place at the highest (sub-) consolidated level; and some respondents suggested that organisational structure (e.g.

organisation by standalone subsidiaries, local funding) should be taken into account, as it would reduce contagion in the group. In addition, the (social) costs of a failure would only affect the host country of an institution.

EBA response

The guidelines require relevant authorities to calculate a score for each relevant entity at least at the highest (sub-) consolidation level of the part of the group that falls under its jurisdiction (i.e. including subsidiaries in other Member States and third countries). The scoring at the highest level of consolidation in one Member State is required to make the harmonised scoring process and the automatic designation of O-SIIs in the first step of the methodology workable and comparable, as this is crucial for achieving the harmonisation objective. In addition, authorities may conduct the assessment for other consolidation levels or sub-groups, if they want to inform their decision on how, and at what level, to set the O-SII buffer requirement (which may differ from the automatic designation as O-SII). This limited flexibility ensures there is correct calibration and allocation of the O-SII buffer requirement. The EBA considers the (sub-) consolidation of subsidiaries in other Member State as appropriate for two reasons. Firstly, systemic importance should not only be measured based on economic importance to the relevant Member State; it should be measured for the Union as a whole. Secondly, experience shows that the importance of an entity cannot be assessed without evaluating the entire group. It is not possible to make a general differentiation between the systemic impact of a group structure based on subsidiaries and branches, for example. Individual specificities, such as those mentioned by respondents, may be taken into account by Member State authorities, when setting the O-SII buffer, where appropriate.

Supervisory judgment and the list of optional indicators

Respondents' views on the role of supervisory judgment and the list of optional indicators were split. Many respondents held the view that the list of optional indicators was too extensive and did not achieve a sufficient level of harmonisation across the Union. In particular, some of the respondents criticised qualitative indicators. However, they appreciated having the resolvability of the institution as an indicator. Other respondents thought that the identification of institutions scoring less than 350 basis points should be based on a purely qualitative supervisory decision, and a catalogue of optional indicators was not required and is potentially unnecessarily restrictive.

EBA response

In the EBA's view, supervisory judgment and optional indicators are necessary to ensure that national specificities and individual functions that may result in systemic importance can be captured appropriately. Most respondents appreciated the need for qualitative indicators. Indicators of this type cannot be fully incorporated in the mandatory framework, and it would also be difficult to limit the impact of the optional indicators. However, there may be room to explore harmonisation methods further in a review of the methodology once authorities have more experience in its application.

Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
International consistency	Many respondents expressed their support for the efforts made to ensure there is consistency with the BCBS methodology for identifying D-SIBs, as well as with the methodology for identifying G-SIIs, as this contributes to creating a level playing field for banks across the Union and worldwide.		
Setting of O-SII buffers and relation to G-SII buffers/ degree of harmonisation	Many respondents commented on the setting of O-SII buffers, especially in relation to G-SII buffers. For G-SIIs that are also considered to be systemic in the home jurisdiction, the additional national buffer should never be higher than the global buffer, as the risk that the failure of an institution could pose to a national economy cannot be greater than the damage that the failure of an institution could pose to the global system. One respondent criticised the fact that there was no deadline to meet the required O-SII buffer.	The mandate in Article 131(3) of Directive 2013/36/EU is limited to the assessment of O-SIIs applying the conditions specified in that paragraph. The setting of the buffer requirement pursuant to Article 131(5) to (8) does not fall within the scope of these guidelines. The Directive gives discretion to national authorities to set the buffer requirement and a deadline for reaching it. However, authorities are expected to base their decision on the systemic importance of the institution, which is assessed in accordance with the methodology defined specified in the guidelines.	No amendment.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	Respondents also requested a higher degree of harmonisation, also with a view to coordination within the college of supervisors or in relation to setting buffer requirements.		
Consolidation level	Respondents raised concerns about the clarity and appropriateness of the level of consolidation used for the identification process. For example, where both the EU parent financial holding company and the institution authorised are located in the same jurisdiction, respondents found it difficult to understand whether or in which circumstances the consolidation would be the overall group consolidation at the highest level, or the sub-consolidation at the authorised institution level. They also criticised the unclear use of the word 'group' in the Annexes. At the same time, some respondents appreciated that entities at various levels may be eligible for O-SII designation. One respondent advocated that data collection should only take place on the level of individual legal entities (rather than at sub-consolidated level).	The guidelines require relevant authorities to calculate a score for each relevant entity (in the meaning of Article 131(1) of Directive 2013/36/EU) at the highest consolidation level of the part of the group that falls under its jurisdiction, including subsidiaries in other Member States and third countries. The scoring at the highest level of consolidation is required to make the harmonised scoring process and the automatic designation of O-SIIs in the first step of the methodology workable and comparable, as this is crucial to achieve the harmonisation objective. In addition, authorities may conduct the assessment for other consolidation levels or sub-groups, to inform their decision on how, and on which level, to set the O-SII buffer requirement (which may differ from the automatic designation as O-SII). This limited flexibility ensures there is correct calibration and allocation of the O-SII buffer requirement.	The wording of the guidelines has been amended to clarify the application of the methodology at different levels of consolidation.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	A few respondents suggested that the organisational structure (e.g. organisation by standalone subsidiaries, local funding) should be taken into account, as it would reduce contagion in the group. In addition, the (social) costs of a failure would only affect the host country of an institution (also for example with regard to DGS involvement and central bank liquidity assistance).	The (sub-) consolidation of subsidiaries in another Member State is appropriate for two reasons. Firstly, systemic importance should not only be based on the economic importance to the relevant Member State; it should be measured for the Union as a whole. Secondly, experience shows that the importance of an entity cannot be assessed without evaluating the entire group. It is not possible to make a general differentiation between the systemic impact of a group structure based on subsidiaries and branches, for example. However, individual specificities such as standalone funding may be taken into account by Member State authorities when setting the O-SII buffer, where appropriate.	
EU or Banking union wide scoring	Respondents suggested that the scoring should result in a ranking of systemic importance made at European level, or that the identification should be based on parameters uniform for the Banking union (e.g. common denominators to normalise the indicator values).	The guidelines aim to ensure there is an optimal balance between harmonisation and flexibility to accommodate the particular features of the Member States' various banking systems and economies. The differentiation of methodology between the Banking union and other Member States is not possible as the banking systems and economies of the Banking union currently show no higher degree of standardisation than	No amendment.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		those outside of the Banking union. A union-wide ranking of institutions in accordance with their systemic importance seems desirable; however, there is no apparent methodology to achieve this whilst ensuring that domestic importance at Member-State level is measured adequately.	
Investment firms	One respondent suggested that investment firms should be included in the assessment.	Authorities may decide to include or exclude investment firms from the standard methodology, to the extent they assess that the indicators fail to measure the specific importance of investment firms, or that calculating denominators based on all institutions is not appropriate.	No amendment.
Worldwide scope of indicators/ Scope of indicators within Member States and the Union	Some respondents questioned the scope of certain indicators. For example, they raised doubts about assessing the systemic importance of domestic banking institutions on a worldwide basis, as the objective in their view should be to measure the impact of a failure on the domestic economy and not the global economy. While supporting the exclusion of liabilities and claims within the same host country from the ‘cross-jurisdictional liabilities and claims’ indicator, a few respondents asked that this exclusion be extended to the other	The systemic relevance of an institution for the economy of the Union or a Member State cannot fully be measured by limiting the scope of the indicator to the Union or the Member State. Relevance may also result from the relationship of the Member State with third countries. In particular, the indicators reflect the role of banks as funding intermediaries which determines their importance for the domestic real economy. Indicators with a worldwide scope such as inter-financial sector and cross-border liabilities capture the capital supply to	No amendment.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	indicators, in particular to payment activity.	and from foreign economies, which may be of particular importance in less extended currency areas.	
Upper threshold for entities automatically identified as O-SIIs	One respondent commented that the threshold designated the majority of the financial entities within a Member State as O-SIIs and raised doubts as to whether this was proportionate. One respondent suggested that the upper threshold should not be binding, i.e. there should be flexibility for authorities not to identify an entity with a higher score than the upper threshold as an O-SII.	Based on extensive simulations in the drafting phase of the guidelines, the EBA does not expect that a majority of the financial entities within a Member State would be designated as O-SII. The automatic designation of an entity as O-SII is one of the cornerstones of the harmonising effect of the guidelines. The simulations conducted by the EBA showed appropriate results.	No amendment.
Resolvability	Respondents suggested considering the resolvability assessment of a group as a measure to determine systemic importance. In this context, one respondent welcomed the criterion ‘degree of resolvability’ as an optional indicator.	The optional indicator ‘degree of resolvability’ sufficiently covers resolvability. In addition, resolvability may be taken into account when setting the O-SII buffer requirement.	A reference to the resolvability assessment has been included in the indicator ‘degree of resolvability’.
Transparency	Respondents recommended that an appropriate European authority, for example the EBA or ESRB, should maintain an up-to-date publication of the various national buffers that are applied by Member States. One respondent felt that the frequency and	The EBA will monitor the assessment of O-SIIs and the Union-wide application of the O-SII buffer requirement. This may imply an appropriate level of transparency on a centralised level. However, this does not fall into the scope of the guidelines.	A deadline for annual disclosure (1 December) has been added to the text.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	deadline for the disclosure of the list of O-SIIs requires further analysis and amendments. Institutions and the scores/buckets/surcharges for each institution required a sufficient period of observation to analyse potential unintended consequences. The respondent suggested that the disclosure requirements should be submitted on an annual basis for all financial institutions, not only those included in each D-SIBs list, as this list will change over time.	The guidelines already provide a high level of transparency and disclosure when requiring authorities to publish (i) the scores of automatically designated O-SIIs and their buffer requirements and (ii) a detailed explanation on the use of the supervisory judgment for institutions identified as O-SIIs applying this judgment.	
Coming into force	One respondent recommended postponing the date of first-time application, considering that specification of indicators was outstanding, in particular the definition of relevant optional indicators by the authorities.	Pursuant to Article 131(3), the guidelines have to be published by 1 January 2015. As the guidelines do not contain specific deadlines, it is up to Member State authorities to decide when to conduct the identification process in the course of 2015.	No amendment.
Responses to questions in Consultation Paper EBA/CP/2014/19			
Question 1 Can you think of any additional indicators that should be included in Table 1 of Annex 1, or indicators that are better suited to reflect systemic relevance? Please provide evidence supporting your	Overall, respondents expressed their satisfaction with the mandatory indicators in Annex 1 and thought they were sufficiently comprehensive. The majority of respondents did not suggest any additional indicators. Few respondents suggested the following: Within the category 'Complexity/cross-border': adding 'Value of trading & AFS securities less	In addition to the objective of measuring the externalities of bank failure appropriately and reflecting the four categories of indicators in Article 131 of Directive 2013/36/EU, the EBA pursued the following objectives to avoid a disproportionately high burden for institutions, in particular with the introduction of additional reporting requirements. The number of indicators should be as low as possible, and	The following indicators have been added to the list of optional indicators in Annex 2: Value of Trading

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
view where possible.	stock of HQLA'; and adding 'Level 3 assets', in both cases to reflect the full complexity of an institution; replacing the indicator 'OTC derivatives' by 'derivatives in the trading book', arguing that MiFID and EMIR pursue the objective of shifting the derivatives trade to central counterparties, and therefore OTC derivatives would be obsolete as indicator; adding the indicator 'number of foreign subsidiaries'; and adding off-balance sheet items. Within the category 'Interconnectedness': replacing the indicators 'interbank liabilities/assets' by 'intra-financial system liabilities/assets', as the indicator should not focus solely on banks, but also reflect exposures to and from other financial sector participants; adding 'volume of securities lending transactions'; adding in the category 'size' the indicator 'risk-weighted assets'; adding 'securitised debt'; adding the indicators 'duration of the fixed income portfolio', 'convexity of fixed income portfolio', 'degree of maturity	additional indicators should only be added if they significantly improve the quality of the outcome of the identification process. In the EBA's view, the addition of the indicators 'value of trading & AFS securities' and 'level 3 assets' would significantly increase the reporting burden for institutions, without equally improving the quality of the identification. Level 3 assets are currently in the list of optional indicators. These indicators, although included in those for G-SII identification, may be more relevant for the assessment of complexity rather than cross-border activities directly, these activities being in the wording of Article 131(3) of the CRD IV (rather than complexity as an explicit criterion to identify O-SIIs). Regarding the indicator referring to derivatives, the process of shifting derivatives from OTC to cleared centrally has not made the former obsolete so far. OTC derivatives continue to be an indicator in the G-SII identification, and in general, consistency with the G-SII identification process is desirable, unless there are reasons for a distinction between this process and the identification of O-SIIs. In addition, the indicator may set an incentive to reduce the volume of OTC derivatives and so is in line with the objective of shifting transactions to central	& available for sale securities (taking into account highly liquid assets) Off-balance-sheet items Change the title of the indicators 'interbank liabilities' and 'interbank assets' to 'intra-financial system' .

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	transformation'. One respondent expressed the view that the indicator 'importance' focused too much on the retail sector. One respondent disagreed with the definition of the indicator 'value of domestic payment transactions' as payments that are linked to transactions of financial instruments (financial instruments clearing, settlement, custody, new issuance and redemption payments) are not excluded.	clearing; one of the ultimate purposes of this objective is to reduce the systemic impact of derivative transactions following a failure of the bank. The EBA does not share the belief that the number of foreign subsidiaries is a reliable measure for complexity and relevant cross-border activities across Member States, as for example, the choice between branches and subsidiaries or the number of legal entities may be influenced by various considerations. In addition, the number would not fit well with the rest of the indicators, as these are related to volume. The title of the indicator 'interbank liabilities/assets' currently used in the Consultation Paper is misleading. The indicator includes not only exposures between banks, but between financial institutions in general. The title should therefore be changed, as the content is already in line with the response received in the consultation. The volume of securities lending transactions may be an indicator for interconnectedness. To a certain extent, the indicator is already reflected in the current framework, as these transactions are one of the principal elements in inter-financial assets/liabilities. However, it should be added as an optional indicator.	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		RWA have been discussed in detail at the BCBS when deciding on appropriate indictors for the identification of G-SIIs, and there are arguments to consider the exposure measure/total assets as more appropriate and objective. In addition, the added perspective of RWA compared to Total assets relates to the probability of a failure rather than to systemic externalities. However, RWA are optional indicators. Securitised debt may be an indicator for the size of the Member States' economies. However, securitisations are not necessarily linked to the real economy, and the level of concentration and relevance of this indicator across Member States varies significantly. The EBA does not wish to add indicators that may distort results for specific Member States, especially those with less complex banking systems, without a thorough review of the impact. Nevertheless, the addition of this indicator may be considered in a review of the guidelines. It should also be added as an optional indicator. Similar considerations apply to the inclusion of off-balance-sheet items. The EBA does not agree that the indicators in the category 'importance' focus on the retail sector, as none of the indicators is limited to retail customers. The EBA does not see a reason for excluding	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		payments relating to transactions in financial instruments from the indicator. These transactions play an important role in financial markets and the real economy.	
Question 2 Do you agree that there may be Member States where small institutions are unlikely to pose systemic threats to the domestic economy? Do you think the option to exclude these institutions could reduce the administrative burden for institutions, or do you think there is a risk that the results of the analysis could be distorted by excluding them?	Most of the respondents welcomed the introduction of a materiality threshold of a 0.01% share of the Member State's total banking sector to reduce the burden of the identification process for smaller institutions and authorities. It was appreciated that the use of an aggregate synthetic proxy for the excluded entities removes any possibility of distortion of the identification process. However, some respondents advocated increasing this threshold, with the suggestions for the threshold ranging from 0.02% to 0.1%, and one respondent suggesting 1%. Respondents argued that in countries with a highly granular banking sector, the proposed level would not lead to mentionable relief. In Germany, for example, according to one respondent a level of 0.01% would currently translate into an asset volume of about EUR 760 million per institution. As an example, one respondent from the United Kingdom mentioned an institution that would be covered by the	The simulation that the EBA conducted to test the methodology showed that a materiality threshold of 0.01% would give authorities the opportunity to exclude a large number of institutions where appropriate. Nevertheless, there may be room to raise this threshold moderately. The risk of distortions in the methodology is acceptably low, as authorities are required to use an aggregate synthetic proxy for the institutions excluded from the exercise. A level of 0.02% seems adequate, especially in relation to the lower cut-off score of 4.5 basis points for institutions which should not be identified as O-SIIs.	The threshold has been raised from 0.01% to 0.02%.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	0.01% threshold which is a small local institution with 11 branches, assets of around GBP 700 million and minimal complexity, interconnectedness or infrastructural involvement. The respondent also provided evidence that a threshold of 0.02% would be in line with the PRA's established practice of categorising institutions in accordance with their systemic relevance. One respondent considered the difference in the materiality threshold of 0.01% and the lower threshold (below which institutions cannot be identified as O-SIIs) as unclear. One respondent had concerns relating to the option to exclude institutions.		
Question 3 Can you think of any additional optional indicators that should be added to the list in Annex 2?	A large number of respondents were of the opinion that the list of optional indicators is too extensive and will not achieve a sufficient level of harmonisation across the Union. In particular, some of the respondents criticised qualitative indicators, but suggested/appreciated considering recovery and resolution plans as an indicator. One respondent suggested that designated authorities should exclusively use criteria	In the EBA's view, supervisory judgment and optional indicators are necessary to ensure that national specificities and individual functions that may result in systemic importance can be captured appropriately. The need for qualitative indicators is appreciated by most respondents. Such indicators cannot be fully incorporated in the mandatory framework, and it would also be difficult to limit the impact of the optional indicators. However, there may be room to	The list of optional indicators has been changed following respondents' comments on the mandatory indicators and indicators in general.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	already included in the Basel G-SIB data collection as optional indicators. Other respondents held the view that the identification of institutions scoring less than 350 basis points should be based on a qualitative supervisory decision, and a catalogue of optional indicators was not required and was potentially unnecessarily restrictive. Some respondents therefore advocated limiting the total weight of the impact of optional indicators to 25%, for example.	explore harmonisation methods further in a review of the methodology once authorities have more experience in its application.	

5. Confirmation of compliance with guidelines and recommendations

Date:	
Member/EEA State:	
Competent authority	
Guidelines/recommendations:	
Name:	
Position:	
Telephone number:	
E-mail address:	

I am authorised to confirm compliance with the guidelines/recommendations on behalf of my competent authority: ☐ Yes

The competent authority complies or intends to comply with the guidelines and recommendations: ☐ Yes ☐ No ☐ Partial compliance

My competent authority does not, and does not intend to, comply with the guidelines and recommendations for the following reasons[1]:

Details of the partial compliance and reasoning:

Please send this notification to compliance@eba.europa.eu [2]

[1] In cases of partial compliance, please include the extent of compliance and of non-compliance and provide the reasons for non-compliance for the respective subject matter areas.

[2] Please note that other methods of communication of this confirmation of compliance, such as communication to a different e-mail address from the above, or by e-mail that does not contain the required form, shall not be accepted as valid.