EBA/RTS/2025/02
EBA/ITS/2025/06

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EBA Regular Use

Final Report

Draft regulatory technical standards

on the components of the business indicator under Article 314(9)(a) of the CRR and the elements to be excluded from the business indicator under Article 314(9)(b) of the CRR and on the adjustments to the business indicator under Article 315(3)(a), (b) and (c) of the CRR

Draft implementing technical standards

on the mapping of the business indicator components with corresponding supervisory reporting references under Article 314(10) of the CRR

Contents

1. Executive Summary

Regulation (EU) No 575/2013 (CRR), as amended by Regulation (EU) 2024/1623, includes amendments to the operational risk capital calculation, where a revised framework is introduced and all previously existing approaches for the calculation of the regulatory capital are replaced by the business indicator component (BIC). The BIC is based on the business indicator (BI), which measures an institution's volume of business.

The EBA has received several mandates concerning the items that make up the BI and how certain operations, such as mergers and acquisitions or disposals, should be considered when calculating the BI:

- Draft regulatory technical standards (RTS) for the EBA mandate in letters (a) and (b) of Article 314(9) to further specify the components of the BI by developing a list of items and the elements to be excluded from the BI, respectively;
- Draft implementing technical standards (ITS) for the EBA mandate in Article 314(10) to provide the mapping of the BI items to the corresponding reporting cells in Commission Implementing Regulation (EU) 2021/451 (FINREP);
- Draft regulatory technical standards for the EBA mandate in Article 315(3) of Regulation (EU) No 575/2013, as amended by Regulation (EU) 2024/1623, to specify 'how institutions shall determine the adjustments to the business indicator' (point (a) referencing mergers, acquisitions and disposals), 'the conditions according to which competent authorities may grant the permission' and 'the timing of the adjustments' (points (b) and (c) referencing disposals only).

A legal text has been drafted to include the provisions corresponding to the two EBA mandates for RTS (i.e. Articles 314(9) and 315(3) of the CRR), while the EBA mandate for ITS has been delivered in a separate legal text.

In particular, a list of typical items has been developed for each component of the BI. This list of items is mainly based on the work carried out for the EBA Policy Advice on the Basel III Reform: Operational Risk (Annex 3, Table 13)[1]. The following changes were made:

- Some changes reflect subsequent amendments to accounting standards, such as for the interest, leases and dividends component (ILDC), where the definition of a lease in IFRS 16 has been taken into account in determining the items to be included, or where derivatives with a positive fair value originating flows such as interest income or expenses are included.

- With regards to the services component (SC), a breakdown of expenses, losses, provisions and other financial impacts due to operational risk events has been provided in order to

[1] eba.europa.eu/sites/default/files/Policy Advice on Basel III reforms - Operational Risk.pdf

obtain adequate and comprehensive information on where the impacts of operational risk events are accounted for in an institution's profit and loss (P&L).

- Concerning the financial component (FC), clarifications have been brought to how the two available approaches work for calculating the trading book and banking book components, together with clarifications on their use and conditions for reversal from one to the other.
- In terms of elements to be excluded from the BI calculation, clarifications were brought. While some of these clarifications are easily identifiable in the financial statement, other elements would benefit from additional detail, such as income and expenses from insurance or reinsurance business in cases where an institution sells or distributes insurance products or services to its clients.

When an institution concludes a merger or an acquisition, the BI of the previous three years of the merged or acquired institution should be considered and incorporated retroactively in the consolidated BI of the acquiring institution. These draft RTS require institutions to use actual three-year historical data or, when their use would not be possible, provides for two alternative methodologies. In the context of disposals, the draft RTS specify the conditions under which permission to exclude BI items related to disposed entities or activities may be granted. Particular attention is given to the presence of guarantee commitments according to which the disposing entity may be requested to cover losses or liabilities that took place in advance of the disposal but were revealed afterwards. Regarding the BI adjustments following disposals, a materiality threshold for disposals on a yearly aggregate level is introduced. Below this threshold, adjustments can take place even without written supervisory permission. This is to provide clarity on the timing of the process for institutions with frequent disposals of low amounts, which have a marginal impact on the BI and thus the amount of capital requirements for operational risk.

Finally, the typical items for each of the components of the BI were mapped to their corresponding reporting cells in FINREP.

Next steps

The draft regulatory technical standards will be submitted to the Commission for endorsement, following which they will be subject to scrutiny by the European Parliament and the Council before being published in the Official Journal of the European Union.

2. Background and rationale

1. The banking package that implements the Basel III framework in the EU envisages several amendments to the Capital Requirements Regulation ('CRR'). This includes the introduction in the EU of a revised framework for own funds requirements for operational risk, consisting of replacing all existing approaches for the calculation of the regulatory capital with a single, non-model-based approach: the business indicator component (BIC).

2. In the context of the BIC, the capital requirements for operational risk are based on a business indicator (BI), a financial statement-based proxy for operational risk consistent with the BCBS standards OPE 25.1(1). The BI is thus based on three components: an interest, leases and dividends component (ILDC), a service component (SC) and a financial component (FC).

3. The following sub-sections provide further details on the development of the draft RTS under Article 314(9)(a) and (b) of the CRR, the draft ITS under Article 314(10) of the CRR and the draft RTS under Article 315(3) of the CRR.

4. During the three-month public consultation phase that ended on 21 May 2024, the respondents provided a significant number of comments on all three technical standards presented in the CP. The simultaneous publication of the CP on policy mandates and the CPs on reporting and transparency has drawn mixed comments, addressing policy and reporting issues in all three CPs, and consequential efforts were put into disentangling the nature of the comments. This final report deals predominantly with aspects pertaining to the policy reasoning behind the decisions made and only answers reporting-related points where this is of the essence for a sound application of the policy stances.

Draft regulatory technical standards on the components of the business indicator under Article 314(9)(a) of the CRR and the elements to be excluded from the business indicator under Article 314(9)(b) of the CRR

5. Article 314(9)(a) of Regulation (EU) No 575/2013 (CRR), as amended by Regulation (EU) 2024/1623, mandates the EBA to draft regulatory technical standards (RTS) specifying the components of the BI, and their use, by developing a list of typical sub-items (hereinafter 'items') considering international regulatory standards and, where appropriate, the prudential boundary defined in Part Three, Title I, Chapter 3 of the CRR.

6. To ensure clarity and consistency in the application of operational risk capital requirements across the European Union, a list of typical items has been developed for each component of the BI. This list is mainly based on the work carried out by the EBA in response to European Commission's Call for Advice and published in the 'EBA Policy Advice on the Basel III Reform:

Operational Risk' (Annex 3, Table 13)[2]. Limited further changes reflect subsequent amendments in accounting standards, as well as feedback received via various interactions with the industry.

The Interest, leases and dividends component (ILDC)

7. The ILDC is made up of three components (i.e. the interest and leases component – IC, the asset component – AC, and the dividends component – DC) and is calculated according to the following formula:

$$ILDC = \min(IC, 0.0225 * AC) + DC$$

8. The list of items included in the IC has been updated to reflect the changes in the International Financial Reporting Standards 9 (IFRS9) on Financial Instruments and in IFRS16 on Leases[3]. In particular, pursuant to Article 314(2)(4), which requires institutions to include lease income and lease expenses in the IC, including depreciation and impairment, the definition of a lease in IFRS 16 has been considered in determining the items to be included in the IC. According to this approach, all income and expenses from investment properties that have generated rents in each relevant period for the calculation of the BI, including rental income from investment properties, are included within the IC. Similar changes have been considered for the AC.

9. However, following the public consultation, the legal text has been amended to clarify that, for the IC, on the interest expenses side, depreciation, impairment and losses only refer to operating lease assets, and losses from 'lease modification' should not be included in the mapping, since they refer only to financial leases.

10. In addition, in the context of the ILDC, the typical items of the AC include all assets in the balance sheet originating interest income and/or interest expenses in each relevant period for the calculation of the BI. Besides cash balance at central banks and other demand deposits, loans and advances, debt securities and tangible and intangible assets subject to lease, derivatives with positive fair value originating flows like interest income or expenses are also included in the AC. Depending on the type of assets, the gross carrying amount, the carrying amount or the fair value is considered as the relevant 'value'.

11. In light of the replies to the public consultation, the draft legal text has been amended to clarify that the definition of interest-earning assets in the RTS/ITS also refers to cases where derivatives do not generate or accrue interest but have a similar flow to the P&L (e.g. interest rate derivatives, where the flow to the P&L is given by the difference between the fixed and variable legs).

[2] EBA BS 2019 XXX (Draft Policy Advice on Basel III reforms – Operational Risk).docx

[3] The IFRS 16 on Leases makes a single accounting model for the lessee, while for the lessor it retains the IAS 17 Leases accounting treatment. This means that, for the lessee, there is no dual accounting model, so there is no differentiation between the operating and finance leases. In all cases, the lessee has to record the asset (right of use) on the balance sheet and a lease liability representing its obligation to make lease payments. In the case of the lessor, IFRS 16 maintains the distinction between a finance lease and an operating lease. Only where the lease is considered to be an operating lease is the asset retained on the balance sheet. As such, only for operating leases, the asset has to be included in the AC (for financial leases, the institution will replace the asset with a loan and advance).

The services component (SC)

12. This component is calculated based on four amounts: other operating income (OI), other operating expenses (OE), fee and commission income (FI) and fee and commission expenses (FE), and the following formula applies:

$$SC = \max(OI, OE) + \max(FI, FE)$$

13.

14. Article 314(5)(5) of the CRR requires institutions to include the institution's expenses and losses from operational risk events in OE. The impacts of operational risk events may be reflected in an institution's financial statement through different accounting breakdowns, which in turn may result in expenses, losses and financial impacts other than those related to operational risk events. As a result, the correspondence with the various items in an institution's P&L statement is not straightforward.

15. Therefore, to obtain adequate and comprehensive information on where the impacts of operational risk events are accounted for in an institution's P&L, a breakdown of expenses, losses, provisions and other financial impacts due to operational risk events has been provided. Moreover, it is maintained that the other operating expenses, in accordance with Article 314(5) and Article 314(7)(b) respectively, are fed with all the impacts of operational risk events, however they are labelled or accounted for, affecting an institution's financial statement, and are not net of any related payments received from insurance or reinsurance policies purchased. Finally, they should include exceptional losses that, following the permission given by the competent authority pursuant to Article 320(1) of that Regulation, can be excluded from the calculation of the institution's annual operational risk loss.

16. As a follow-up to the feedback received during the consultation period, the legal text has been amended to clarify that the recovery of administrative expenses – which encompasses recovery of payments on behalf of customers (e.g. taxes debited to customers, stamp duty, substitute tax and other recoveries) – should not be included in the OI. As regards the OE, and in line with Article 317(5) of Regulation (EU) No 575/2013, as amended by Regulation (EU) 2024/1623, which clearly states that boundary losses with credit risk that are not included into the credit RWA should be considered under the operational risk perimeter, the legal text has been amended to include 'Impairment or (-) reversal of impairment' in the breakdown of expenses, losses, provisions and other financial impacts due to operational risk events. These boundary losses typically refer to unpaid credit assets due to operational risk events (credit frauds, unenforceable credit contracts, collateral failures, etc.) that are not accounted for in the credit RWA. Furthermore, it was clarified that any financial impact due to operational risk events should be included within the OE, irrespective of whether it is related to lease assets, or is accounted for in different items of the BI (e.g. interest expenses) or in items which do not belong to the BI (e.g. administrative expenses). Finally, it was also clarified that recoveries other than insurance and reinsurance should be used to net operational risk losses before these are included within the OE.

The financial component (FC)

17. The financial component (FC) is the sum of the trading book component (TC) and the banking book component (BC), where each of these components is computed as the annual average of the absolute values over the previous three financial years of the net profit or loss (P&L):

18. $$FC = TC + BC$$

19. In its policy advice on the European implementation of the Basel III framework for operational risk, the EBA adopted an accounting-based approach (accounting approach, AA) to define all the components, including the TC and the BC, in full alignment with the Basel framework stance on the BI being 'a financial statement-based proxy' for operational risk (OPE 25.1(1)). According to the AA, the net gains and losses from the accounting trading portfolio are assigned to the TC and the net gains and losses from the accounting non-trading (i.e. banking) portfolios are assigned to the BC.

20. However, under this approach, certain types of operations and accounting choices, including the economic hedging of fair value through profit and loss positions, or the bifurcation of derivatives embedded in host hybrid or structured financial instruments, may cause an 'unwarranted increase' in the FC. In the economic hedging, this 'unwarranted increase' would be caused by the presence of types of operations that are strictly related to each other, and which are of opposite P&L sign, but which are accounted for in different components of the FC (i.e. the TC and the BC) when calculated in accordance with the international regulatory standards. Since the FC formula envisages the sum of the absolute values of the P&L of the TC and the BC, the amounts of these operations cannot be netted when computing the FC.

21. Considering the above, fourth subparagraph of Article 314(4) clarifies that the institution's trading book shall be defined as appropriate either in accordance with accounting standards or in accordance with Part Three, Title I, Chapter 3 (i.e. the prudential boundary criteria). Moreover, in accordance with Article 314(9), point (a), the EBA is mandated to develop the list of items of the BI by 'taking into account international regulatory standards and, where appropriate, the prudential boundary defined in Part Three, Title I, Chapter 3'. Were the prudential boundary criteria to be used to calculate the FC in the cases mentioned in paragraph 18, the 'unwarranted increase' would be avoided, since, under this framework, those operations would be treated as being under the same book (i.e. the prudential trading book or the prudential non-trading book), thus allowing the netting of their amounts within the FC.

22. Moreover, there might be other situations beyond those already mentioned that could cause an 'unwarranted increase' in the FC; however, it is neither possible to identify *ex ante* all of them, nor to *ex ante* set values or percentages for the 'unwarranted increase', since this strictly depends on the types of operation and/or the accounting choice adopted by an institution (e.g. for hedging) in its ordinary business rather than on specific products or instruments.

23. Based on this background, the draft RTS provide that, instead of using the AA, an institution may adopt – where certain conditions apply – the Prudential Boundary Approach, PBA, for calculating the FC, thus adjusting the items of the TC and of the BC according to the rules envisaged in the prudential boundary framework of the CRR, as referenced in the mandate granted to the EBA.

24. To ensure a uniform application of the prudential boundary framework to the different risks that institutions are exposed to, when using the PBA, institutions should implement it consistently with the strategies, policies, procedures, systems and controls adopted in accordance with Part Three, Title I, Chapter 3.

25. Moreover, it is worth highlighting that the 'trading book' concept cannot simply be applied to the own funds requirements for operational risk. This is because, unlike the capital requirements for market risk or other risks, which are based on the stocks of the regulatory trading and non-trading books portfolio at specific dates (e.g. 31/12, 30/6), the own funds requirements for operational risk are computed starting from the P&L flows for the components of the BI. These P&L flows are clearly identifiable for the trading and non-trading components of the FC only when an accounting-based method is used, since this means using common accounting standards (e.g. IFRS) and institutions' regulatory reporting (e.g. in FINREP).

26. In the absence of such an accounting hook, retrieving the P&L of all the positions held in the prudential trading book and non-trading book, starting from a daily basis until reaching the three years envisaged for the calculation of the FC, requires the institutions having dedicated organisational measures, which are not necessarily fully compatible with those stocks-based methods implemented for the calculation of the own funds requirements for market risk or other risks. Therefore, institutions that intend to use the PBA should be required to have in place policies, procedures, systems and controls to carry out such calculations in a proper manner.

27. To provide a sound framework for the use of the PBA, several features are included in the draft RTS:

    a) Consistency: In order to avoid regulatory arbitrage, once the PBA is chosen, it should be used for all three years envisaged for the calculation of the FC;

    b) Transparency: It is important to accompany the use of the PBA with an *ex ante* notification process, through which the institutions inform the competent authorities of their choice and document the fulfilment of the criteria for the use of the PBA.

    c) Reversal to AA: Where any of the conditions for the use of the PBA are no longer fulfilled, e.g. when the operations originating the 'unwarranted increase' in the FC are dismissed, the institutions should revert to the AA and should not use the PBA again in the three years following the reversal. A notification prior to the reversal, including proper information and documentation, should be provided to the competent authorities.

28. The EBA has analysed the development of this approach in light of the comments received during the consultation period. The EBA considers that it is within its mandate to clarify when it is appropriate to use either the AA or the PBA, and does not see these clarifications as introducing a hierarchy between the two approaches. There is nonetheless a need to specify when the two can be used and, more importantly, to ensure the institutions have the means necessary to comply with the requirements of either of the two approaches.

29. With a view to ensuring proper interpretation of the conditions for the use of the PBA set out in the Consultation Paper, the legal text was amended to clarify that, in the case of economic hedging, the 'unwarranted increase' should not be extended to: a) the P&L of hedging instruments in the trading book, which are not strictly and clearly related to the P&L of the hedged instruments in the non-trading book valued at fair value through profit and loss in the accounting statement of profit and loss; or b) to situations where the institution does not fully and clearly adhere to the rules and conditions envisaged by the prudential boundary defined in Part Three, Title I, Chapter 3 of Regulation (EU) No 575/2013 (CRR). In all these cases, the adjustments to the FC should be limited to the amount of P&L related to risks effectively covered by the hedge, and matching the accounting P&L of the hedged items. Moreover, in such cases,

the institution's policies, procedures, systems and controls should be able to disentangle the profit and loss of hedged instruments and related hedges, connecting the latter to the hedged risks and to document the hedging relationship, in line with the risk management objectives of the institution.

30. To ensure coherence in the application of the rules within a group, the legal text was amended to further clarify that partial use of the PBA in combination with the AA is not feasible. Throughout the three-year horizon for the calculation of the BI, an institution at solo level cannot alternate the approaches, and neither can a group at consolidated level. This does not pre-empt the use of the AA at solo level for institutions in a group and the use of PBA at group (consolidated) level, or vice versa. In order to provide further clarity on the *ex ante* notification, the legal text was amended to distinguish what information and documentation is referring only to the initial adoption of the PBA, and what should instead be regularly reviewed (and potentially updated). Moreover, it was clarified that the time period of 90 days envisaged by the *ex ante* notification starts from the submission to the competent authority of the information and documentation in a complete manner.

31. Finally, on 24 July 2024, the European Commission adopted a Delegated Act[4] in accordance with Article 461a of Regulation (EU) No 575/2013 (CRR) that, upon entry into force, would defer the application of the Fundamental Review of the Trading Book (FRTB) standards for the calculation of own funds requirements for market risk in the European Union for one year. The EBA has subsequently issued a 'no action letter'[5] that complements the Delegated Act by advising competent authorities not to prioritise any supervisory or enforcement action in relation to the application of the provisions on the boundary between the non-trading and the trading book until the entire FRTB standard is implemented in the EU and is used for calculating own funds requirements for market risk. This letter also clarifies that, with regards to the use of the prudential boundary approach for the purposes of calculating the own funds requirements for operational risk, institutions should use the same boundary definition as they apply for the purposes of calculating the own funds requirements for market risk. Once the no action letter ceases to apply, institutions that used the prudential boundary approach during the postponement period are expected to review the information on the use of this approach in line with the forthcoming associated regulatory technical standards and resubmit the corresponding notification.

Items excluded from the BI in line with Article 314(9)(b) of the CRR

32. Article 314(9)(b) of the CRR requests the EBA to draft RTS to further specify the elements that institutions do not have to use in the calculation of the BI, thus detailing those listed in Article 314(7) of the CRR.

33. While some of these elements are easily identifiable in the financial statement, other elements would benefit from additional detail. Indeed, the income and expenses from insurance or reinsurance business to be excluded from the calculation of the BI, as referred to in Article 314(7)(a) of the CRR, are those where an institution takes the insurance risk. Where instead an institution sells or distributes insurance products or services to its clients, the income and expenses are to be included within the BI, since these products or services are conceptually not different, from an operational risk perspective, from financial products or services.

[4] Capital Requirements Regulation – European Commission

[5] FRTB postponement – Technical issues and Supervisory Benchmarking.pdf

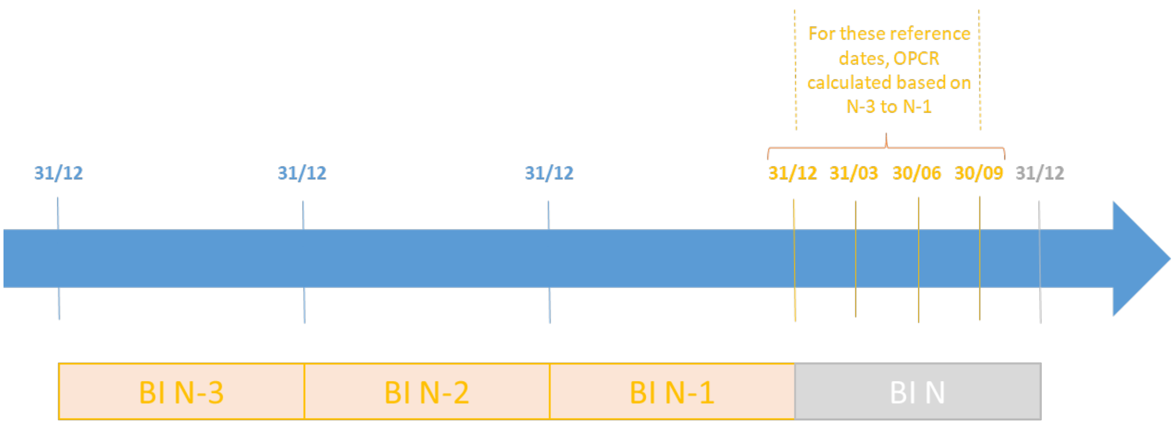
34. Moreover, certain financial impacts related to lease assets or resulting from operational risk events, or outsourcing fees paid for the supply of financial services, might be accounted for under some items (administrative expenses, including staff expenses, depreciation of tangible assets, amortisation of intangible assets, impairment or reversal of impairment) that, in accordance with Article 314(7) of the CRR, should not contribute to the BI. In such cases, those financial impacts shall not be excluded from the calculation of the BI.

35. With specific regard to exclusions of elements from the BI, the CRR does not envisage the generic exclusion of extraordinary or irregular items from the BI. Article 314(7) of the CRR states that OI or OE should be calculated using the institution's income or the institution's expenses and losses from ordinary banking operations not included in other items of the business indicator, but which are of similar nature. 'Ordinary banking operations' refer to 'business as usual' banking operations; hence the income and expenses generated in the course of such operations, irrespective of whether labelled as ordinary or extraordinary, need to be included in the most appropriate items of the institution's P&L statement, in line with the criteria established by IAS, IFRS or, in general, national General Accepted Accounting Principles (nGAAP) standards. These income and expenses should then be included into the BI, having regard to the qualifications set out in Article 314(10) of the CRR, as further specified in these RTS/ITS.

Draft regulatory technical standards on the adjustments to the business indicator under Article 315(3)(a), (b) and (c) of the CRR

36. Article 314 of the CRR provides that each component of the BI is calculated as 'the annual average over the last three financial years', meaning that the operational risk capital requirements are the same from 31/12 of year N-1 to 30/09 of year N, and shall be calculated based on N-1 to N-3 audited financial statements of the institution, as illustrated in Figure 1 below:

Figure 1: Timeline for calculation of operational risk capital requirements (OPCR)



37.

38. The operational risk capital requirements aim to capture and cover the risks related to operational failure or deficiencies arising from the conduct of activities (unexpected losses over a one-year horizon, in principle). The use of averages in the context of the calculation aims to avoid excessive volatility of the capital charge for operational risk. However, it is acknowledged that, from a risk perspective, the merger, acquisition or disposal of entities or activities may affect the operational risk profile of the institutions and may not be sufficiently reflected under the

standard methodology. Moreover, the changes in operational risk exposures may require different approaches, and not necessarily on a symmetrical basis, for mergers and acquisitions as compared to disposals.

39. On the basis of the considerations above, and in accordance with the Basel framework, Article 315 of the CRR requires institutions to include items related to merged or acquired activities and entities in their BI and allows institutions, subject to permission by the competent authority, to exclude items related to disposed activities and entities.

40. For the application of these provisions, the EBA was mandated in Article 315(3) of the CRR to specify '*how institutions are to determine the adjustments to the business indicator*' (point (a) referencing mergers, acquisitions and disposals), '*the conditions under which competent authorities are able to grant the permission*' and '*the timing for the adjustments*' (points (b) and (c) referencing disposals only).

41. Given the above-mentioned points, it is important to ensure, through the provisions of these RTS, that the methods for determining adjustments in cases of mergers or acquisitions, and the conditions under which an entity or an activity can be excluded, are tailored to the institution's effective risk profile while ensuring both sufficient harmonisation across the EU and realistic operational implementation. To achieve those objectives, the following aspects were especially considered by the EBA when drafting the RTS:

42. *Calculation of the business indicator adjustment*: The determination of the adjustment value should consider that historical information related to purchased entities or activities may not be available or accurate. While the principle will be to use the audited financial information over the past three years, the RTS should provide for an alternative simplified measure that should nonetheless be conservative enough. Thus, to ensure sufficient harmonisation, ranked alternative calculation approaches have been defined. These alternative approaches should only apply for mergers and acquisitions, given that, for disposals, the institution has the information to precisely determine which items should be excluded.

43. *Conditions for granting permission to exclude disposed entities and activities*: In the context of disposals of entities or activities, and while the activities are transferred, specific arrangements may have been entered into in order for the disposing entity to provide any compensation for losses or future liabilities which could arise from events that took place prior to the transaction and which were not known at the time of the transaction. The disposing entity may also face additional operational risks related to possible reorganisation aspects of the operation (e.g. reduction of resources dedicated to operational risk management, business restructuring). There are therefore situations in which it may not be considered reasonable for an institution to exclude items of a disposed entity from its BI and operational risk capital requirements. It is also important to consider the costs and benefits of the granting process to get adjustments to the BI with respect to the capital relief caused by those adjustments.

Calculation of the business indicator adjustment

a. In the context of mergers and acquisitions

44. Article 315(1) of the CRR states that 'Institutions shall include business indicator items of merged or acquired entities or activities in their business, and shall cover the last three financial years', which therefore implies in principle, for any acquisition or merger, establishing revised

‘pro forma’ financial statements as if the entity were part of the group or institution concerned for the three previous exercises, as shown in the example in Table 1 below:

Table 1: Illustration of calculation

	Y-3			Y-2			Y-1				
	Bank A	Target E/B	New Bank A	Bank A	Target E/B	New Bank A	Bank A	Target E/B	New Bank A	Bank A	New Bank A
ILDC										**15**	
IC	*10*	*5*	*15*	*15*	*8*	*23*	*16*	*8*	*24*	*14*	
AC	*400*	*200*	*600*	*600*	*300*	*900*	*800*	*400*	*1 200*	*600*	[illegible]
DC	*1*	*1*	*2*	*1*	*1*	*2*	*1*	*1*	*2*	*1*	
SC										**9**	
OI	*3*	*2*	*5*	*2*	*1*	*3*	*3*	*2*	*5*	*3*	
OE	*2*	*1*	*3*	*4*	*2*	*6*	*3*	*2*	*5*	*3*	
FI	*5*	*3*	*8*	*6*	*3*	*9*	*6*	*3*	*9*	*6*	
FE	*2*	*1*	*3*	*2*	*1*	*3*	*3*	*2*	*5*	*2*	
FC										**2**	
TC	*2*	*1*	*3*	-	-	-	*1*	*1*	*2*	*1*	
BC	-	-	-	-	-	-	*3*	*2*	*5*	*1*	
BI										**25**	
BIC										**4**	
BIC bucket 1										*1*	
BIC bucket 2										*24*	
BIC bucket 3										-	
RWAs										**47**	

45. Institutions would then have to ‘rebuild’ historical financial data for the three previous years for each acquisition, as shown in Table 2:

Table 2: Illustration of a rebuild of historical financial data

Acquisition in May 2024	**30.6.2024**	**31.12.2024**	**31.12.2025**	**31.12.2026**
indicator T-1	2023 pro forma accounts	2024 (financial statements including the acquisition are available, no adjustments needed)	2025 (financial statements including the acquisition are available, no adjustments needed)	2026 (financial statements including the acquisition are available, no adjustments needed)
indicator T-2	2022 pro forma accounts	2023 pro forma accounts	2024 (financial statements including the acquisition are available, no adjustments needed)	2025 (financial statements including the acquisition are available, no adjustments needed)
indicator T-3	2021 pro forma accounts	2022 pro forma accounts	2023 pro forma accounts	2024 (financial statements including the acquisition are available, no adjustments needed)

46. However, as shown by past decisions adopted by competent authorities in application of the former Articles 315 and 317 of the CRR, the historical data related to the acquired entity may not be available or may not be accurate. In these cases, various approaches were used and approved in the absence of sufficiently reliable data (i.e. in the absence of audited financial statements covering the perimeter of the operation for the full three years, difficulties in establishing pro forma accounts, or in the case of accuracy issues). In all cases though, the objective was to ensure that the approach followed was conservative.

47. Given the above approaches and options, while also considering the potential difficulties in retrieving the historical data for certain operations, and taking into account the responses to the CP, the following approach is implemented:

    a. Main principle: use of the three-year historical data (audited financial statements or, for the acquisition of activities, pro forma financial statement used for the analysis and valuation of the operations, i.e. financial information presented to the institution's highest governance body that definitively authorises the operation);

    b. Alternative to main principle: in cases where institutions prove that the three years of historical data are not available, or in cases where institutions prove that the historical data available are not accurate (e.g. the acquired entity has transferred part of its activities prior to the transaction), institutions are required to use the ranking approach described in the next paragraphs.

48. Firstly, institutions could use, as a provisional proxy of the BI, the institution BIC multiplied by the M&A factor calculated on the basis of the most recent financial information available and accurate in relation to that entity or activity, including the annualised ongoing financial exercise:

$$M\&A\ factor\ = \frac{Institution\ Net\ Operating\ Income\ + Entity/Activity\ Net\ Operating\ Income}{Institution\ Net\ Operating\ Income},$$

where the Net Operating Income (NOI) has the same meaning as 'net total operating income' as in Commission Implementing Regulation (EU) 2021/451, i.e. it is indicated by the FINREP item: F02.00_r355_c 010.

49. Then, if this 'M&A factor' approach is not feasible due to lack of data, the institution shall use financial forecasts in relation to that entity or activity based on information used for the final valuation (see illustration in Table 4).

50. Tables 3 and 4 below illustrate the calculation under the two ranked alternative approaches in paragraphs 42 and 43:

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60.Table 3: Illustration of expected calculation under paragraph 50 (use of M&A scaling factor)[6]

Acquisition **in May 2024**, the last available information (although not audited) for the acquired entity is at Dec 2023	**30.6.2024**	**31.12.2024**	**31.12.2025**	**31.12.2026**
indicator T-1	2023 Institution business indicator multiplied by 1.2	2024 (financial statements including the acquisition are available, no adjustments needed)	2025 (financial statements including the acquisition are available, no adjustments needed)	2026 (financial statements including the acquisition are available, no adjustments needed)
indicator T-2	2022 Institution business indicator multiplied by 1.2	2023 Institution business indicator multiplied by 1.2	2024 (financial statements including the acquisition are available, no adjustments needed)	2025 (financial statements including the acquisition are available, no adjustments needed)
indicator T-3	2021 Institution business indicator multiplied by 1.2	2022 Institution business indicator multiplied by 1.2	2023 Institution business indicator multiplied by 1.2	2024 (financial statements including the acquisition are available, no adjustments needed)

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[6] For the purposes of this illustration, if the NOI of the acquiring institution is 100 (31.12.2023) and that of the acquired entity is 20 (31.12.2023), the M&A factor would be 1.2.

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73.Table 4: Illustration of expected calculation under paragraph 51 (use of forecasts)

Acquisition in **May 2024**, information related to 2023, 2022, 2021 not available for acquired entity.	**30.6.2024**	**31.12.2024**	**31.12.2025**
indicator T-1	Acquiring institution 2023 audited + Inclusion of acquired entity BI items based on average forecast 2024–2025–2026 (instead of 2023)	2024 (financial statements including the acquisition are available, no adjustments needed)	2025 (financial statements including the acquisition are available, no adjustments needed)
indicator T-2	Acquiring institution 2022 audited + Inclusion of acquired entity BI items based on average forecast 2024–2025–2026 (instead of 2022)	Acquiring institution 2023 audited + Inclusion of acquired entity BI items based on average 2024 realised and forecast 2025–2026 (instead of 2023)	2024 (financial statements including the acquisition are available, no adjustments needed)
indicator T-3	Acquiring institution 2021 audited + Inclusion of acquired entity BI items based on average forecast 2024–2025–2026 (instead of 2021)	Acquiring institution 2022 audited + Inclusion of acquired entity BI items based on average 2024 realised and forecast 2025–2026 (instead of 2022)	Acquiring institution 2023 audited + Inclusion of acquired entity BI items based on average 2024 and 2025 realised and forecast 2026 (instead of 2023)

b. In the context of disposals

74. For disposed activities or entities, the information over the past three years is available. The principle should therefore be to reflect the disposal in the BI covering the three-year period that is relevant (no impact on the full period if the entity or the activity was initiated, created, or purchased during the three-year period). The items related to the disposed entity must, however, be adjusted if the historical financial statements are not accurate due to restructuring operations conducted prior to the disposal and resulting in maintaining part of the activity within the disposing institution.

Conditions under which permission to exclude BI items related to disposed entities or activities may be granted

75. Based on the competent authorities' decisions adopted for the application of Articles 315(3) and 317(4) of CRR2, it appears that the review was mainly focused on the calculation of adjustments and the materiality of the adjustment. but in the assessment it is observed that additional information on the actual level of operational risk losses and in relation to possible future liabilities were also considered and analysed.

76. Based on developments in the introduction, and also considering those competent authorities' decisions, and to assess the opportunity to grant permission to exclude a disposed entity or activity from the BI, the competent authority should especially consider:

a. ***Operational losses***: how that entity or activity contributed to the institution's operational risk losses in the past;

b. ***Guarantee commitment and future liabilities***: whether the transaction agreements or any side agreements provide that the disposing institution or disposing group is committed to providing any compensation for losses or future liabilities which could arise from events that took place prior to the transaction and are not known at the time of the transaction;

77. ***Operational risk exposures*****:** whether the disposal results in significant additional exposure to operational risk or a change in operational risk management structure that would undermine its capacity to identify, measure and mitigate the operational risk (e.g. change in IT systems, transfer of resources, and other reorganisation aspects after the transactions).

78. Finally, in order to permit appropriate scrutiny of the operations by the competent authorities, the institutions should submit, together with the application, the following documentation or information:

    a. The description of the operation, its rationale, and its implementation dates.

79. The quantitative impact analysis of the operation on operational risk capital requirements in accordance with the methodology established under Article 2 of this Regulation and any supporting evidence, including audited financial statements and pro forma financial statements established by an independent auditor:

    a. The detail of operational risk losses related to the entity or activity disposed of over the last 10 years, where available;.

80. The terms and conditions of the disposal, including any side agreements, as well as a legal analysis regarding liabilities that may be incurred from events that took place prior to the transaction:

    a. The confirmation that the operation has been approved by the management body and the date of approval;

    b. The analysis of the impact of the operation on the operational risk management structure of the institution.

81. Any additional document or information that the institution considers useful to establish that the entity or activities disposed of are no longer deemed relevant to the institution's risk profile.

Timing for adjustments

82. To ensure timely consideration of the institution risk profile change, the BI should be updated at the first reference date after the acquisition or merger becoming effective. For the disposal of an entity or activity, and subject to authorisation being granted, the BI should be adjusted at the first reference date after the authorisation is received or at the first reference date after the disposal becomes effective (if the authorisation is provided before the completion of the operation).

Materiality

83. In line with the CRR, the adjustments to the BI due to mergers and acquisitions are systematic and should happen after each operation. This is why no materiality threshold is included in the

draft legal text. Nonetheless, for some institutions, multiple mergers, acquisitions and disposals take place throughout the year, which requires multiple adjustments to the BI based either on financial information over the last three years or on proxy data when a full three-year historical data series is not available. Considering that adjustments to the BI would occur for every acquisition, merger or disposal, more information has also been gathered via the consultation process for these RTS, concerning their frequency and impact on the operational risk capital requirements.

84. Regarding mergers and acquisitions, the complexity of the adjustments to the BI due to M&As lies in the methodology used to carry out the adjustments. Given the simplified methodology to be used in case of adjustments, particularly in case of data unavailability, as presented in paragraphs 41 to 47 of this final report, coupled with the fact that a materiality threshold for adjustments to the BI due to M&As would only delay the impact on capital requirements for a period of one to three years, the EBA has deemed it unnecessary to introduce such a threshold. In addition, the administrative burden on institutions would be only slightly reduced in case of an M&A threshold, since adjustments would have to be computed anyway, to determine whether the threshold has been crossed.

85. With regards to disposals, and in line with the CRR, institutions may choose not to ask for permission from their CA to adjust the BI following disposal(s). In this case, they are not allowed to reflect the disposal(s) in the calculation of capital requirements. Those wishing to reflect disposal(s) in their capital requirements calculation need to ask for permission from their CA. As it is understood that the process of requesting permission to reflect individual disposals may be cumbersome for institutions and their CAs, it was considered reasonable to have a threshold for determining the materiality of the divestments.

86. To maintain a proportionate approach, this threshold is defined as a threshold below which the permission to adjust can be considered granted if the CA does not reply within 90 days of the request for permission. This decision is supported by the fact that it contributes to streamlining the administrative process post-disposal, and it adds clarity regarding the timing for reflecting the disposals for institutions looking to do so for disposals with small NOI impact.

87. The total annual net operational impact of disposals to be compared to the threshold should be an aggregate, over the same fiscal year, of disposals carried out by an institution:

88. $Impact_{fiscal\ year} = \sum_{i=1}^{n} Impact_i,$

89. where *i* is a disposal carried out by the institution during the fiscal year.

90. The net operational impact of a disposal is calculated by following the formula:

91. $Impact = NOI_{disposed\ \mathrm{entity}/activity} / NOI_{disposing\ institution}$

92. where the NOI is the Net Operating Income, as defined in paragraph 50 (i.e. 'Total operating income, net' – FINREP item: F02.00_r355_c 010).

93. Finally, the threshold is set at 5% of the total annual net operational impact of disposals. Based on the data received via the EU-specific template of the Basel III monitoring exercise, a threshold of 5% would correspond to more than two thirds of potential requests and reflects a maximum

estimated amount of less than 1% of capital requirements for operational risk, which means a very marginal impact on the total capital requirements[7].

Draft implementing technical standards on the mapping of the business indicator components with corresponding supervisory reporting references under Article 314(10) of the CRR

94. Article 314(10) mandates the EBA to draft implementing technical standards (ITS) to specify the items of the BI by mapping those items with the corresponding reporting cells in Commission Implementing Regulation (EU) 2021/451 (FINREP).

95. In the above-mentioned advice to the Commission for the adoption of the CRR, the EBA already proposed a detailed mapping of the BI items to the FINREP items (see Annex 3, Table 13). This proposal was motivated, on one hand, by the need to ensure a harmonised interpretation and adoption of the BI across the EU, and, on the other hand, to limit its implementation/administrative/operational costs for the EU institutions.

96. The choice of FINREP was motivated by the fact that FINREP templates are developed to account for both the IFRS and for national accounting frameworks (nGAAP). In these draft ITS, some limited changes are suggested to make them fully aligned with the institutions' practice for reporting the various BI items according to the FINREP standards.

97. Consistently, the mapping envisaged in the EBA advice, as amended to consider recent changes in the IFRS, has been the reference used to address the mandate granted to the EBA in Article 314(10) of the CRR.

98. Therefore, these draft ITS provide the references of the BI items to the FINREP items. Such references can be exact or, for certain BI items, approximate, owing to the adjustments to be made to the FINREP items to reflect the qualifications envisaged by the CRR for the calculation of those BI items.

99. Given the strong ties between these ITS and the RTS on BI components, feedback from the consultation is often intertwined between the two topics, and the associated answers and clarifications from the EBA bring clarity both from a policy standpoint as well as from a mapping perspective. Changes were subsequently made to the ITS on mapping to ensure consistency with the RTS on BI components.

[7] Assumption: the NOI is used as a proxy for BIC, which implies that the maximum impact on the BIC is 18% x 0.05=0.9%. Considering the typical impact of operational risk on total RWAs, this would mean a very marginal impact on total RWAs.

3. Draft regulatory technical standards on the components of and the elements to be excluded of the Business indicator under Article 314(9) of the CRR and draft regulatory technical standards on the adjustments to the business indicator under Article 315(3)(a), (b) and (c) of the CRR

EBA/RTS/20XX/XX

DD Month YYYY

COMMISSION DELEGATED REGULATION (EU) …/…

of XXX

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying the components of the business indicator, their use and the elements excluded from the calculation and with regard to regulatory technical standards specifying the adjustments to the business indicator in case of mergers, acquisitions or disposals

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,
Having regard to Regulation (EU) No 575/2013 as amended by Regulation (EU) 2024/1623 of the European Parliament and of the Council of 31 May 2024 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor[8], and in particular third subparagraph of Article 314(9) and third subparagraph of Article 315(3) thereof,

Whereas:

(1) The business indicator is a financial statement-based proxy for operational risk. The items representing ordinary banking business operations in an institution's profit and loss statement or balance sheet statement should be included within this indicator. Elements to be excluded from the BI are only those provided for in Regulation (EU) No 575/2013 and further specified in these RTS.

(2) Since the fourth subparagraph of Article 314(2) of Regulation (EU) No 575/2013 requires institutions to include all income and expenses arising from financial and operating leases in the interest and leases component, including depreciation and impairment, the items related to leases included in the interest and leases component of the BI should be aligned with those in International Financial Reporting Standards (IFRS) 16. Accordingly, all income and expenses from investment properties that generate rents, including rental income from investment properties, should be included within the interest and leases component.

8 OJ L, 2024/1623, 19.6.2024.

(3) In order to ensure consistency with the international accounting standards, the asset component referred to in the fifth subparagraph of Article 314(2) of Regulation (EU) No 575/2013 should be calculated as the sum of the gross carrying amounts, the carrying amount or the fair value of certain balance sheet assets, depending on the type of assets. Given that the asset component contributes to the calculation of the interest, leases, and dividends component, it should include all the assets on the balance sheet that generate interest income and/or interest expenses.

(4) The fifth subparagraph of Article 314(5) of Regulation (EU) No 575/2013 requires institutions to include in the other operating expenses the institution's expenses and losses from operational risk events. Since operational risk events can take several forms in an institution's financial statement (e.g. expenses, losses, provisions, impairment, depreciation), the other operating expenses should be fed with all the impacts of operational risk events, however labelled or accounted, affecting an institution's financial statement. Such expenses should be net of recoveries other than insurance and reinsurance; however, they should not be net of any related payments received from insurance or reinsurance policies purchased, and should include exceptional losses that, following the permission given by the competent authority pursuant to Article 320(1) of that Regulation, can be excluded from the calculation of the institution's annual operational risk loss.

(5) In order to obtain proper and exhaustive information on where the financial impacts of operational risk events are accounted for in an institution's financial statement, those financial impacts should be broken down by the main items of the profit and loss statement where these impacts are accounted for.

(6) Certain types of operations or accounting choices, including the economic hedging of fair value through profit and loss positions, and the bifurcation of derivatives embedded in host hybrid or structured financial instruments, may cause an unwarranted increase in the financial component, whose formula envisages the sum of the absolute values of the profit and loss of the trading book component and of the banking book component. In the economic hedging, the unwarranted increase is due to the presence of types of operations that are strictly related to each other and which are of opposite profit and loss sign, however, they are accounted for in different components of the business indicator (i.e. the trading book component and the banking book component) when calculated in accordance with the international accounting standards; hence the amounts of these operations cannot be netted when computed within the financial component. In such cases, institutions should be allowed to adopt the prudential boundary approach, i.e. to calculate the financial component in accordance with Part Three, Title I, Chapter 3 of Regulation (EU) No 575/2013. Under the prudential boundary approach, these operations would be treated as being under the same book (i.e. the prudential trading book or the prudential non-trading book); hence their amounts would be offset within the financial component, consistently with their underlying economic rationale.

(7) In order to prevent the improper use of the prudential boundary approach, the concept of 'unwarranted increase' in the case of economic hedging should not be extended to the profit and loss of hedging instruments in the trading book which are not strictly and clearly related to the profit and loss of hedged instruments in the non-trading book valued at fair value through profit and loss in the accounting statement of profit and

loss, or to situations where the institution does not fully and clearly adhere to the rules and conditions envisaged by the prudential boundary defined in Part Three, Title I, Chapter 3, of Regulation (EU) 575/2013. Furthermore, adjustments to the financial component should be limited to the amount of profit and loss related to risks effectively covered by the hedge, and matching the accounting profit and loss of the hedged items.

(8) Institutions that intend to adopt the prudential boundary approach should be able to calculate the profit and loss of all the positions held in the prudential trading book and the prudential non-trading book, over the three years envisaged for the calculation of the financial component. In case of economic hedging, institutions should be able to disentangle the profit and loss of hedged instruments and related hedges, connecting the latter to the hedged risks, and to document the hedging relationship in line with the risk management objectives of the institution. These calculations are different from the calculation carried out under the accounting approach and are not based on harmonised accounting standards nor subject to periodic supervisory reports. As a consequence, only institutions that have in place policies, procedures, systems and controls to carry out such calculations in a proper manner, including the disentanglement of the profit and loss amounts in case of economic hedging, and to properly document them, should be allowed to adopt the prudential boundary approach.

(9) In order to prevent regulatory arbitrage through the selected use of the prudential boundary approach in some years of the calculation, or in some entities of the same group, the prudential boundary approach should be applied for all three years envisaged in the calculation of the business indicator; moreover, the partial use of the prudential boundary approach in combination with the accounting approach should not be feasible.

(10) In order for the competent authorities to review the adoption of the prudential boundary approach, the institutions intending to adopt it should provide them with adequate documentation and information prior to its implementation.

(11) Where any condition allowing for the adoption of the prudential boundary approach is no longer met, the institution should revert to the accounting approach. In order to prevent regulatory arbitrage, too-frequent switches from one approach to the other should be discouraged.

(12) As required by Article 314(9), point (b) of Regulation (EU) No 575/2013, and with a view to ensuring clarity and consistency in the calculation of the business indicator, some of the elements to be excluded from that calculation listed in Article 314(7) of that Regulation should be further specified.

(13) All income and expenses where an institution sells or distributes insurance or reinsurance products or services should not be excluded from the calculation of the business indicator, since these products or services are – from an operational risk perspective – conceptually no different from financial products or services whose income and expenses stemming from their distribution are included within the business indicator, typically under fee and commission income or fee and commission expenses.

(14) Certain financial impacts related to lease assets or resulting from operational risk events, or the outsourcing fees paid for the supply of financial services, might, in specific cases, be accounted for under the following items, listed in Article 314(10) of

Regulation (EU) No 575/2013: administrative expenses, including staff expenses, depreciation of tangible assets, amortisation of intangible assets, impairment or reversal of impairment. In such cases, those financial impacts should not be excluded from the calculation of the business indicator.

(15) In the case of acquisitions, mergers or disposals, the consideration of a three-year period based on financial statements for the calculation of the business indicator may lead to a potential divergence between the capital requirements for operational risk and the effective risk profile of a given institution. The method for determining the business indicator's adjustment in the case of mergers, acquisitions or disposals, and the conditions under which a disposed entity or an activity can be excluded, should ensure better alignment between the institution's capital requirements and the institution's effective risk profile.

(16) In principle, given that the business indicator is a financial statement-based proxy for operational risk, its adjustment following mergers or acquisitions should be based on the audited financial statement of the merged or acquired entities or activities. However, institutions may experience difficulties in retrieving a historical series of accurate data related to the merged or acquired entities or activities over the three-year period to be considered for reflecting the operation. Therefore, institutions should be provided with possible alternative calculation options that are conservative enough, in cases where the historical data relating to the acquired or merged entity or activities over is not available or accurate to cover the full period that is relevant to the calculation of its business indicator.

(17) The disposal of a business or of an entity may not always imply that the operational risk related to the disposed entity or activities is fully transferred to the acquiring entity. For instance, the terms and conditions of the disposal may provide for an indemnity arrangement in case of new liabilities or losses arising from operational risk events occurring prior to the transaction. Therefore, in the case of disposals, the conditions under which permission by the competent authorities may be granted should, in particular, aim to ensure that the entity or activity disposed is no longer deemed relevant to the institution's risk profile.

(18) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.

(19) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[9],

HAS ADOPTED THIS REGULATION:

[9] 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 (OJ L 331 du 15.12.2010, p. 12–47).

Chapter 1
INTEREST, LEASES AND DIVIDEND COMPONENT

Article 1
Interest income

The interest income shall be calculated as the sum of the following items:

a) interest income from financial assets held for trading,
b) interest income from non-trading financial assets mandatorily at fair value through profit or loss,
c) interest income from financial assets designated at fair value through profit or loss,
d) interest income from financial assets at fair value through other comprehensive income,
e) interest income from financial assets at amortised cost,
f) interest income from hedge accounting – interest rate risk derivatives,
g) interest income on other assets,
h) interest income on liabilities,
i) income on operating leases, including rental income from investment property,
j) income from changes in fair value in investment properties that generate rents and are measured using the fair value model,
k) profits from leased assets, including gains from lease modifications.

Article 2
Interest expenses

The interest expenses shall be calculated as the sum of the following items:

a) interest expenses from financial liabilities held for trading,
b) interest expenses from financial liabilities designated at fair value through profit or loss,
c) interest expenses from financial liabilities measured at amortised cost,
d) interest expenses from hedge accounting – interest rate risk derivatives,
e) interest expenses on other liabilities,
f) interest expenses on assets,
g) operating leasing expenses, including direct operating expenses from investment property that generate rents,
h) expenses from changes in fair value in investment properties that generate rents and are measured using the fair value model,
i) losses from operating leased assets,
j) depreciation and impairment or reversal of impairment of operating leased assets whose income or expenses are included in the calculation of the interest and leases component.

The above items shall not include any expense due to operational risk events, which shall be instead included in Article 6(1) (d) (i).

Article 3

Asset component

The asset component shall be calculated as the sum of the following items:

a) gross carrying amount of cash balance at central banks and other demand deposits,
b) gross carrying amount of debt securities,
c) gross carrying amount of loans and advances,
d) fair value of derivatives classified as financial assets at the reference date for the calculation of the asset component, as long as the flows from such derivatives have been recognised during the financial year in the interest component; both trading and economic hedges and hedge accounting shall be included,
e) carrying amount of tangible assets and intangible assets subject to lease.

Article 4

Dividend component

The dividend component shall include dividend income from equity instruments and investments.

Chapter 2

SERVICES COMPONENT

Article 5

Other operating income

Other operating income shall be calculated as the sum of the following items, which shall not include recovery of administrative expenses:

a) income from changes in fair value in tangible assets measured using the fair value model, except income from changes in fair value in investment properties that generate rents and are measured using the fair value model,
b) income from other income not due to leases,
c) profit from non-current assets and disposal groups classified as held for sale not qualifying as discontinued operations.

Article 6

Other operating expenses

1. The other operating expenses shall be calculated as the sum of the following items:

a) expenses from changes in fair value in tangible assets measured using the fair value model, except expenses from changes in fair value in investment properties that generate rents and are measured using the fair value model,
b) expenses from other expenses, not due to operational risk events and not due to financial leases,

c) losses from non-current assets and disposal groups classified as held for sale not qualifying as discontinued operations,
d) losses, expenses, provisions and other financial impacts due to operational risk events accounted for in any items of the profit and loss statement, including those accounted for in the following items:
    i. interest expenses,
    ii. other operating expenses,
    iii. staff expenses,
    iv. other administrative expenses,
    v. depreciation,
    vi. provisions or (-) reversals of provisions,
    vii. impairment or (-) reversal of impairment.

2. For the purposes of point (d), the losses, expenses, provisions and other financial impacts due to operational risk events:

a) shall be net of related payments received from other than insurance or reinsurance policies purchased,
b) shall not be net of any related payments received from insurance or reinsurance policies purchased, and
c) shall include those exceptional losses that, following the permission given by the competent authority pursuant to Article 320(1) of Regulation (EU) No 575/2013, can be excluded from the calculation of the institution's annual operational risk loss.

Article 7

Fee and commission income component

The fee and commission income component shall include income from ancillary activities to the financial services, such as income from IT activities necessary to execute a financial service, and shall be calculated as the sum of the following items:

a) fee and commission income from securities,
b) fee and commission income from corporate finance,
c) fee and commission income from fee-based advice,
d) fee and commission income from clearing and settlement,
e) fee and commission income from asset management,
f) fee and commission income from custody,
g) fee and commission income from central administrative services for collective investment,
h) fee and commission income from fiduciary transactions,
i) fee and commission income from payment services,
j) fee and commission income from customer resources distributed but not managed,
k) fee and commission income from structured finance,
l) fee and commission income from loan servicing activities,
m) fee and commission income from loan commitments given,
n) fee and commission income from financial guarantees given,
o) fee and commission income from loans granted,
p) fee and commission income from foreign exchange,

q) fee and commission income from commodities,
r) other fee and commission income.

Article 8

Fee and commission expenses component

The fee and commission expenses shall include the expenses from ancillary activities to the financial services, such as expenses from IT activities necessary to execute a financial service, and shall be calculated as the sum of the following items:

a) fee and commission expenses from securities,
b) fee and commission expenses from clearing and settlement,
c) fee and commission expenses from asset management,
d) fee and commission expenses from custody,
e) fee and commission expenses from payment services,
f) fee and commission expenses from loan servicing activities,
g) fee and commission expenses from loans commitments received,
h) fee and commission expenses from financial guarantees received,
i) fee and commission expenses from externally provided distribution of products,
j) fee and commission expenses from foreign exchange,
k) other fee and commission expenses.

Chapter 3

FINANCIAL COMPONENT

Article 9

Calculation of the financial component

Institutions shall calculate the financial component by using one of the following approaches:

1. the ‘accounting approach’ under which they determine the financial component in accordance with Articles 10 and 11 on the basis of the applicable accounting framework;

2. the ‘prudential boundary approach’ under which they determine the financial component in accordance with Article 12 of this Regulation on the basis of the prudential boundary set out in Part Three, Title 1, Chapter 3, of Regulation (EU) No 575/2013), provided that all of the following conditions are met:

   a) certain types of operations performed, or accounting choices adopted, including the economic hedging of fair value through profit and loss positions or the bifurcation of derivatives embedded in host hybrid or in structured financial instruments, result in an unwarranted increase of the financial component when using the accounting approach;
   b) the institution has in place policies, procedures, systems and controls to disentangle the profit and loss of hedged instruments and related hedges, connecting the latter to the hedged risks, and to properly calculate the profits and losses of the prudential trading book and the prudential non-trading book;

c) the internal procedures and systems are able to document the hedging relationship based on risk management objectives and choices as well as their changes over time, duly documented and justified in a timely manner by the risk appetite of the institution;
d) the adjustments to the financial component are restricted to the amount of profit and loss related to risks effectively covered by the hedge and matching the accounting profit and loss of the hedged items.

Section 1

Calculation of the financial component according to the accounting approach

Article 10

Trading book component

The trading book component shall be calculated as the sum of the following items:

a) Gains or (-) losses on financial assets and liabilities held for trading, net;
b) Gains or (-) losses from hedge accounting, net, where hedge accounting is used for hedging financial assets and liabilities held for trading;
c) Exchange differences [gain or (-) loss], net, where such differences originate from financial assets and liabilities held for trading.

Article 11

Banking book component

The banking book component shall be calculated as the sum of the following items:

a) Gains or (-) losses on derecognition of financial assets and liabilities not measured at fair value through profit or loss, net;
b) Gains or (-) losses on non-trading financial assets mandatorily at fair value through profit or loss;
c) Gains or (-) losses on financial assets and liabilities designated at fair value through profit or loss, net;
d) Gains or (-) losses from hedge accounting, net, where hedge accounting is used for hedging financial assets and liabilities other than held for trading;
e) Exchange differences [gain or (-) loss], net, where they originate from financial assets and liabilities other than held for trading.

Section 2

Calculation of the financial component according to the prudential boundary approach

Article 12

Prudential boundary approach

1. When calculating the financial component on the basis of the prudential boundary approach, institutions shall use the items in Articles 10 and 11 with appropriate adjustments in accordance with Part Three, Title I, Chapter 3 of Regulation (EU) No 575/2013.

2. The prudential boundary approach shall, where adopted, be applied consistently with the institution's strategies, policies, procedures, systems and controls, as set out in accordance with Part Three, Title 1, Chapter 3 of Regulation (EU) No 575/2013.

3. The prudential boundary approach shall not be used in combination with the accounting approach.

4. The prudential boundary approach shall, where adopted, be applied to all three financial years envisaged for the calculation of the financial component.

5. Where the prudential boundary approach is applied, competent authorities shall review whether the conditions referred to in Article 9(2) are met.

Article 13

Notification process for the use of the prudential boundary approach

1. Institutions shall notify the competent authorities of their intention to use the prudential boundary approach at least 90 days before its implementation.

2. The notification of the intention to use the prudential boundary approach referred to in paragraph 1 shall include the following information and documentation:

   a) Confirmation that the use of the prudential boundary approach has been approved by the management body or by an internal committee designated by it, and the date of approval;
   b) The implementation date of the prudential boundary approach;
   c) The description of the types of operations performed or accounting choices adopted which cause the unwarranted increase in the financial component and the institution's expectations concerning their development;
   d) Portfolios of the trading book component and the banking book component affected by the unwarranted increase, the value of these portfolios at the reference date of the notification, expressed as notional for derivatives, nominal for debt instruments, market value for stocks and collective investments undertaking, as well as the contribution per subsidiary to these portfolios when the notification is submitted by a consolidating entity;
   e) The description of the adjustments to the items in Articles 10 and 11 determined by the use of the prudential boundary approach;

f) The analysis of the impact of the use of the prudential boundary approach on the trading book component, the banking book component, the financial component, the business indicator and the capital requirements for operational risk, at the last reporting date in comparison with the Accounting approach;
g) The description of the policies, procedures, systems and controls referred to in Article 9(2) point (b);
h) Report of the independent review of the institution's internal or external audit on fulfilment of the conditions referred to in Article 9(2).

3. The 90-day period referred to in paragraph 1 shall start only when the information and documentation referred to in paragraph 2 is complete.

4. The institution shall update and make available to the competent authorities:

a) at least annually the documentation referred in point (2) c), e), h) and d) and f), the latter at the reference date of the update of the BI calculation,
b) the documentation referred to in point (2) g) only in the event of changes during the period of use of the prudential boundary approach.

Article 14

Reversal to the accounting approach

1. Where any condition set out in Article 9(2) is no longer met, institutions shall revert to the accounting approach.

2. Once readopted, the accounting approach shall be applied to all three financial years envisaged for the calculation of the financial component.

3. Institutions which have reverted to the accounting approach shall not use the prudential boundary approach again during the following three years.

Article 15

Notification process for the reversal to the accounting approach

1. Institutions shall notify the competent authorities of their reversal to the accounting approach at least 90 days before its implementation.

2. The notification of the reversal to the accounting approach indicated in paragraph 1 shall include the following information and documentation:

a) Confirmation that the reversal to the accounting approach has been approved by the management body or by an internal committee designated by it, and the date of approval
b) The implementation date of the accounting approach;
c) Information on the conditions referred to in Article 9(2) which are no longer met;
d) The analysis of the impact of the reversal to the accounting approach on the trading book component, the banking book component, the financial component, the business indicator,

and the capital requirements for operational risk, at the last reporting date in comparison with the prudential boundary approach;

e) Report of the independent review of the institution's internal or external audit on the points (c) and (d) above.

Chapter 4

Elements to be excluded from the business indicator

Article 16

Scope of the exclusions from the business indicator

1. The exclusions referred to in Article 314(7) Regulation (EU) No 575/2013 shall be applied as follows:

a) for the purposes of Article 314(7) point (a) of that Regulation, income and expenses resulting from the distribution of insurance or reinsurance products or services shall not be excluded from the calculation of the business indicator.
b) for the purposes of Article 314(7) point (c) of that Regulation, the following items, where accounted for as administrative expenses, shall not be excluded from the calculation of the business indicator:
   i) outsourcing fees paid for the supply of financial services,
   ii) lease expenses,
   iii) administrative expenses, including staff expenses, resulting from operational risk events,
c) for the purposes of Article 314(7) point (f) and (i) of that Regulation, the following items, where related to lease assets or resulting from operational risk events, shall not be excluded from the calculation of the business indicator:
   i) depreciation of tangible assets,
   ii) amortisation of intangible assets,
   iii) impairment or reversal of impairment.

Chapter 5

Adjustments to the business indicator

Article 17

Calculation of the business indicator adjustment in case of mergers and acquisitions

1. Institutions shall include acquired or merged entities or activities items for the calculation of their business indicator based on historical audited financial statements. For acquisitions of activities for which dedicated financial statements were not historically established, the adjustment shall be based on the historical financial information used for the final valuation of the activity acquired.

2. Where institutions prove that the historical audited financial statements or historical financial information related to the acquired or merged activity or entity referred to in paragraph 1 are not available or accurate, institutions shall include acquired or merged entities or activities in the calculation of their business indicator using the institution's business indicator multiplied by the

M&A factor, calculated on the basis of the last financial information available and accurate in relation to that entity or activity, including the annualised ongoing financial exercise:

$$M\&A\ factor\ = \frac{Institution\ Net\ Operating\ Income\ + Entity/Activity\ Net\ Operating\ Income}{Institution\ Net\ Operating\ Income}$$

where *Net Operating Income (NOI)* has the same meaning as in Commission Implementing Regulation (EU) 2021/451 (FINREP F02.00_r355_c010).

3. If the M&A factor approach is not feasible due to lack of data, institutions shall include acquired or merged entities or activities in the calculation of their business indicator using financial forecasts in relation to that entity or activity based on information used for the final valuation.

4. The institution shall use its audited financial statements for the calculation of its business indicator instead of the approach used under paragraph 2 as soon as the acquired or merged entity or activity is fully included in the institution's financial statements.

5. Any business indicator adjustments made by an institution in application of this Article shall also apply at the level of its parent undertaking subject to Regulation (EU) No 575/2013 requirements in accordance with Article 11 of that regulation.

6. Institutions shall notify their competent authority when including acquired or merged entities or activities items in accordance with paragraphs 1 to 3. This notification shall be made 90 days prior to the inclusion of the acquired or merged entities or activities, and shall present the own funds requirements for operational risk as calculated in accordance with paragraphs 1 to 3.

Article 18

Timing for business indicator adjustments following mergers and acquisitions

Where an adjustment is required in line with Article 17, the institution shall take into account the adjustment at the first applicable reporting submission date under Regulation (EU) No 2021/451 after the date from which the operation takes effect.

Article 19

Conditions and process for granting permission to exclude from the business indicator amounts related to disposed entities or activities and necessary documentation

1. Competent authorities shall consider granting an institution permission to exclude from the business indicator amounts related to disposed entities or activities upon analysis of the following items:

   (a) the contribution of those entities or activities to the institution's operational risk losses over the past few years;

   (b) any contractual arrangement whereby the institution or any other entity in its group undertakes to provide the purchaser with compensation or indemnification for future losses or liabilities arising from operational risk events that occurred prior to the transaction;

(c) the impact of the disposal on the institution's operational risk management structure that would undermine its capacity to identify, measure and mitigate the operational risk, including changes in information technology systems, transfer of resources, and any other relevant restructuring aspects.

2. Institutions applying for the permission referred to in paragraph 1 shall submit the following documentation and information to their competent authority:

(a) the description of the operation, its rationale and its implementation dates;

(b) the quantitative impact analysis of the operation on operational risk capital requirements in accordance with the methodology established under this Article and any supporting evidence, including audited financial statements and pro forma financial statements established by an independent auditor;

(c) the detail of operational risk losses related to the entity or activity disposed over the last 10 years, where available;

(d) the terms and conditions of the disposal, including any side agreements, as well as a legal analysis regarding liabilities that may be incurred from events that took place prior to the transaction;

(e) the confirmation that the operation has been approved by the management body and the date of approval;

(f) the analysis of the impact of the operation on the operational risk management structure of the institution;

(g) any additional document or information that the institution considers useful to prove that the entity or activities disposed of are no longer deemed relevant to the institution's risk profile.

3. When institutions decide to request the permission referred to in Article 315(2) of Regulation (EU) 575/2013, they shall submit their complete request for permission to the relevant competent authority at least 90 days before the intended date of the adjustment of the business indicator.

4. The relevant competent authority has 90 days from receiving the complete documentation supporting a request for permission from an institution to respond in writing to this request.

Article 20

Conditions for granting permission to exclude from the business indicator amounts related to disposed entities or activities when the impact of the divestments is materially low

1. In addition to the above, where the conditions set by Article 19(1) are met, competent authorities' permission for adjusting the BI following a disposal shall be deemed granted where both the following conditions are met:

(a) the sum of the net operating income (NOI) of the divested entities or activities throughout a fiscal year represents no more than 5% of the NOI of the divesting institution over the same fiscal year, and

(b) the competent authorities do not oppose the request in writing within 90 days of receiving the complete documentation supporting a request for permission from an institution.

2. The calculation in paragraph 1(a) shall be made at the end of the preceding financial year using the amount of the NOI of the divested entities or activities and of the divesting institution.

Article 21

Calculation of the business indicator adjustment in case of disposals

Where the permission referred to in Articles 19 or 20, as relevant, has been granted, the institution may exclude the business indicator amounts related to the disposed entities or activities for the last three financial years, based on the audited financial statements of those entities or the financial information used for the final valuation of those activities.

Article 22

Timing for business indicator adjustments in case of disposal

After being granted the permission referred to in Articles 19 or 20, as relevant, institutions may adjust their business indicator in line with the provisions of Article 21. The revised operational risk capital requirements shall be reported at the following applicable reporting submission date under Regulation (EU) No 2021/451.

Chapter 6

Final provisions

Article 23

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

On behalf of the President
[Position]

4. Draft implementing technical standards on the mapping of the business indicator components with corresponding supervisory reporting references under Article 314(10) of the CRR

EBA/ITS/20XX/XX

DD Month YYYY

COMMISSION IMPLEMENTING REGULATION (EU)…/...

laying down implementing technical standards for the application of [Regulation/Directive] [serial number] of the European Parliament and of the Council with regard to

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,
Having regard to Regulation (EU) 2024/1623 of the European Parliament and of the Council of 31 May 2024 amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor[10], and in particular Article 314(10) thereof,

Whereas:

(1) Given that the FINREP templates laid down in Annexes III and IV of Commission Implementing Regulation (EU) 2021/451 set out the financial information to be reported in accordance with IFRS and GAAP, items to be included in the calculation of the business indicator components should be mapped with the corresponding cells of those templates.

(2) Given that Article 314 of Regulation (EU) No 575/2013 envisages specific qualifications for the calculation of some items of the business indicator, the above-mentioned mapping should specify where such qualifications are needed and where, instead, the mapping with the corresponding cells of the FINREP templates is exact.

(3) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.

(4) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the […] Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 109x/2010 of the European Parliament and of the Council[11],

[10] OJ L, 2024/1623, 19.6.2024

[11] 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 (OJ L 331, 15.12.2010, p. 12–47).

Article 1

The following correspondence is established between the items included in the calculation of the business indicator, as listed in the regulatory technical standards mandated in accordance with Article 314(9) of Regulation (EU) No 575/2013 (hereinafter, 'RTS on BI items') and the cells of the FINREP templates laid down in Annexes III and IV of Commission Implementing Regulation (EU) 2021/451:

BI items		Corresponding cells of the FINREP templates laid down in Annexes III and IV of Commission Implementing Regulation (EU) 2021/451
	Interest income (Article 1 of the RTS on BI items)	
a)	interest income from financial assets held for trading	F02.00_r0020_c0010
b)	interest income from non-trading financial assets mandatorily at fair value through profit or loss	F02.00_r0025_c0010
c)	interest income from financial assets designated at fair value through profit or loss	F02.00_r0030_c0010
d)	interest income from financial assets at fair value through other comprehensive income	F02.00_r0041_c0010
e)	interest income from financial assets at amortised cost	F02.00_r0051_c0010
f)	interest income from hedge accounting – interest rate risk derivatives	F02.00_r0070_c0010
g)	interest income on other assets	F02.00_r0080_c0010
h)	interest income on liabilities	F02.00_r0085_c0010
i)	income on operating leases, including rental income from investment property	F45.03_r0020_c0010+F45.03_r0030_c0010 For institutions not required to report the F45 template, this can also be obtained from F02.00_r340_c0010 (only from operating leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column.
j)	income from changes in fair value in investment properties that generate rents and are measured using the fair value model	F45.03_r0010_c0010 (only from leased assets) For institutions not required to report the F45 template, this can also be obtained from F02.00_r340_c0010 (only from leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column.
k)	profits from leased assets, including gains from lease modifications	F02.00_r0425_c0010 (only from leased assets) + F45.3_r0040_c0010 (only from leased assets). The latter could also be obtained from F02.00_r340_c0010 (only from leased assets) for institutions not required to report the F45 template, by considering only the amount pertinent to the relevant item, which is described in the left column.

	Interest expenses (Article 2 of the RTS on BI items)	
a)	interest expenses from financial liabilities held for trading	F02.00_r0100_c0010
b)	interest expenses from financial liabilities designated at fair value through profit or loss	F02.00_r0110_c0010
c)	interest expenses from financial liabilities measured at amortised cost	F02.00_r0120_c0010
d)	interest expenses from hedge accounting – interest rate risk derivatives	F02.00_r0130_c0010
e)	interest expenses on other liabilities	F02.00_r0140_c0010
f)	interest expenses on assets	F02.00_r0145_c0010
g)	operating leasing expenses, including direct operating expenses from investment property that generate rents	F45.03_r0020_c0020 (only from operating leased assets)+ F45.03_r0030_c0020 (only from operating leased assets)+ F16.08_r100_c0010 (only from operating leased assets) For institutions not required to report either F16 or F45 templates, this can also be obtained from F02.00_r350_c0010 (only from operating leased assets) + F02.00_r380_c0010 (only from operating leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column
h)	expenses from changes in fair value in investment properties that generate rents and are measured using the fair value model	F45.03_r0010_c0020 (only from operating leased assets) For institutions not required to report the F45 template, this can also be obtained from F02.00_r350_c0010 (only operating leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column.
i)	losses from operating leased assets	F45.03_r0040_c0020 (only from operating leased assets) For institutions not required to report the F45 template, this can also be obtained from F02.00_r350_c0010 (only from operating leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column.

j)	depreciation and impairment or reversal of impairment of operating leased assets whose income or expenses are included in the calculation of the interest and leases component	F02.00_r0390_c0010 (only from operating leased assets) + F02.00_r0520_c0010 (only from operating leased assets)
	Asset component (Article 3 of the RTS on BI items)	
a)	gross carrying amount of cash balance at central banks and other demand deposits	F18.00_r0005_c0010
b)	gross carrying amount of debt securities	F18.00_r0010_c0010 + F18.00_r0181_c0010 + F18.00_r0211_c0010 + F01.01_r0080_c0010 + F01.01_r0094_c0010 + F01.01_r0173_c0010 + F01.01_r0177_c0010 + F01.01_r0232_c0010 + F01.01_r0236_c0010
c)	gross carrying amount of loans and advances	F18.00_r0070_c0010 + F18.00_r0191_c0010 + F18.00_r0221_c0010 + F01.01_r0090_c0010 + F01.01_r0095_c0010+ F01.01_r0174_c0010 + F01.01_r0178_c0010 + F01.01_r0233_c0010 + F01.01_r0237_c0010
d)	fair value of all derivatives classified as financial assets at the reference date for the calculation of the asset component, as long as the flows from such derivatives have been recognised, during the financial year, in the interest component; both trading and economic hedges and hedge accounting shall be included	F01.01_r0060_c0010 (only those generating interest or similar flows) + F01.01_r0092_c0010(only those generating interest or similar flows) + F01.01_r0240_c0010 (only those generating interest or similar flows)
e) carrying amount of tangible assets and intangible assets subject to lease		F21.00_r0010_c0010 + F42.00_r0010_c0020 + F21.00_r0040_c0010 + F42.00_r0040_c0020 + F21.00_r0070_c0010 + F42.00_r0070_c0020 For institutions not required to report either F21 or F42 templates, this can also be obtained from F01.01_r270_c0010 (only from leased assets) + F01.01_r320_c0010 (only from leased assets).
Dividend component (Article 4 of the RTS on BI items)		
dividend income from equity instruments and investments		F02.00_r0160_c0010
Other operating income (Article 5 of the RTS on BI items)		

a) income from changes in fair value in tangible assets measured using the fair value model, except income from changes in fair value in investment properties that generate rents and are measured using the fair value model	F45.03_r0010_c0010 (excluding leased assets) For institutions not required to report the F45 template, this can also be obtained from F02.00_r340_c0010 (excluding leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column.
b) income from other income not due to leases	F45.03_r0040_c0010 (excluding leased assets) For institutions not required to report the F45 template, this can also be obtained from F02.00_r340_c0010 (excluding leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column.
c) profit from non-current assets and disposal groups classified as held for sale not qualifying as discontinued operations	F02.00_r0600_c0010
Other operating expenses (Article 6 of the RTS on BI items)	
a) expenses from changes in fair value in tangible assets measured using the fair value model, except expenses from changes in fair value in investment properties that generate rents and are measured using the fair value model	F45.03_r0010_c0020 (only from operating leased assets) For institutions not required to report the F45 template, this can also be obtained from F02.00_r350_c0010 (only from operating leased assets) by considering only the amount pertinent to the relevant item, which is described in the left column.
b) expenses from other expenses, not due to operational risk events and not due to financial leases	F45.03_r0040_c0020 (not due to operational risk and not due to financial leases) For institutions not required to report the F45 template, this can also be obtained from F02.00_r350_c0010 (not due to operational risk and not due to financial leases) by considering only the amount pertinent to the relevant item, which is described in the left column.
c) losses from non-current assets and disposal groups classified as held for sale not qualifying as discontinued operations	F02.00_r0600_c0010
d) losses, expenses, provisions and other financial impacts due to operational risk events accounted for in any items of the profit and loss statement	Sum of points i. to vii. below, plus the remaining losses, expenses, provisions and other financial impacts due to operational risk events
including those accounted for in the following items:	

i.	interest expenses	F02.00_r090_c0010 (due to operational risk events)
ii.	other operating expenses	F45.03_r0040_c0020 (due to operational risk events) For institutions not required to report the F45 template, this can also be obtained from F02.00_r350_c0010 (due to operational risk events) by considering only the amount pertinent to the relevant item, which is described in the left column.
iii.	staff expenses	F02.00_r0370_c0010 (due to operational risk events)
iv.	other administrative expenses	F02.00_r0380_c0010 (due to operational risk events or to outsourcing fees paid for the supply of financial services)
v.	depreciation	F02.00_r0390_c0010 (due to operational risk events)
vi.	provisions or (-) reversals of provisions	F02.00_r0430_c0010 (due to operational risk events)
vii.	Impairment or (-) reversal of impairment	F02.00_r0460_c0010 (due to operational risk events) + F02.00_r0510_c0010 (due to operational risk events)
	Fee and commission income (Article 7 of the RTS on BI items)	
a)	fee and commission income by activity	F22.01_r0020_c0010 + F22.01_r0051_c0010 + F22.01_r0055_c0010 + F22.01_r0060_c0010 + F22.01_r0070_c0010 + F22.01_r0080_c0010 + F22.01_r0110_c0010 + F22.01_r0120_c0010 + F22.01_r0131_c0010 + F22.01_r0140_c0010 + F22.01_r0180_c0010 + F22.01_r0190_c0010 + F22.01_r200_c0010 + F22.01_r0210_c0010 + F22.01_r0211_c0010 + F22.01_r0213_c0010 + F22.01_r0214_c0010 + F22.01_r0220_c0010 Also obtained from F02.00_r200_c0010.
	Fee and commission expenses (Article 8 of the RTS on BI items)	
a)	fee and commission expenses by activity	F22.01_r0235_c0010 + F22.01_r0240_c0010 + F22.01_r0245_c0010 + F22.01_r0250_c0010 + F22.01_r0255_c0010 + F22.01_r0260_c0010 + F22.01_r0270_c0010 + F22.01_r0280_c0010 + F22.01_r0281_c0010 + F22.01_r0282_c0010 + F22.01_r0290_c0010 + F02.00_r0380_c0010 (only outsourcing fees paid) Also obtained from F02_r0210_c0010 + F02.00_r0380_c0010 (only outsourcing fees paid)
	Trading book component (Article 10 of the RTS on BI items)	

a) Gains or (-) losses on financial assets and liabilities held for trading, net	F02.00_r0280_c0010 + F02.00_r0285_c0010
b) Gains or (-) losses from hedge accounting, net, where hedge accounting is used for hedging financial assets and liabilities held for trading.	F02.00_r0300_c0010 (only the trading book component)
c) Exchange differences [gain or (-) loss], net, where such differences are originated from financial assets and liabilities held for trading	F02.00_r0310_c0010 (only the trading book component)
Banking book component (Article 11 of the RTS on BI items)	
a) Gains or (-) losses on derecognition of financial assets and liabilities not measured at fair value through profit or loss, net	F02.00_r0220_c0010
b) Gains or (-) losses on non-trading financial assets mandatorily at fair value through profit or loss	F02.00_r0287_c0010 + F02.00_r0295_c0010
c) Gains or (-) losses on financial assets and liabilities designated at fair value through profit or loss, net	F02.00_r0290_c0010
d) Gains or (-) losses from hedge accounting, net, where hedge accounting is used for hedging financial assets and liabilities other than held for trading	F02.00_r0300_c0010 (only the non-trading book component)
e) Exchange differences [gain or (-) loss], net, where they are originated from financial assets and liabilities other than held for trading	F02.00_r0310_c0010 (only the non-trading book component)

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

On behalf of the President
[Position]

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

Technical standards in Article 314(9) of the CRR

Article 314(9)(a) of the CRR mandates the EBA to list the components of the BI, while Article 314(9)(b) of the CRR mandates the EBA to specify the elements indicated in Article 314(5) to be excluded from the BI. The EBA shall draft regulatory technical standards that will address both the above-mentioned mandates.

Furthermore, Article 314(10) of the CRR requires the mapping of the items of the BI with the corresponding reporting cells in Commission Implementing Regulation (EU) 2021/451. The EBA shall also draft ITSs to address this mapping.

The strategic objective of the RTS and ITS is to provide sufficient provisions for building the business indicator in a consistent way, and thus providing an exhaustive list of elements that form part of the business indicator calculation, and the way they contribute to the calculation of this indicator (Article 314(9)(a) of the CRR), as well as the specification of the elements that are excluded from its calculation (Article 314(9)(b) of the CRR). In doing so, the EBA is confronted with the following operational challenges:

- Requesting the necessary information by using, as far as possible, the existing information or calculation practices to avoid burdening credit institutions;
- Harmonising the best calculation practices across the EU;
- The proposals should not have a detrimental effect on the total economic cost resulting from the cost of regulatory capital and the operational cost of the preferred solutions.

One of the main principles at the heart of the European implementation of the final Basel III framework has been full alignment with the Basel policy stances. In the context of the operational risk framework and given that the BI is defined as a financial statement-based proxy, this leads to using an accounting approach for defining the components of the BI.

Considerations on the Asset Component

The asset component (AC) is part of the formula used to calculate the interest, leases and dividend component (ILDC) of the BI and, in accordance with Article 314(2) of the CRR, comprises the total gross outstanding loans, advances, interest-bearing securities, including government bonds, and lease assets. The AC is used in the formula of the ILDC to set a cap on the contribution of the Interest and Leases Component (IC) to the business indicator.

Two relevant points on the AC are whether or not interest-bearing derivatives should be included among its list of items, and in the affirmative case, what metric should be used for their calculation (i.e. fair value or notional).

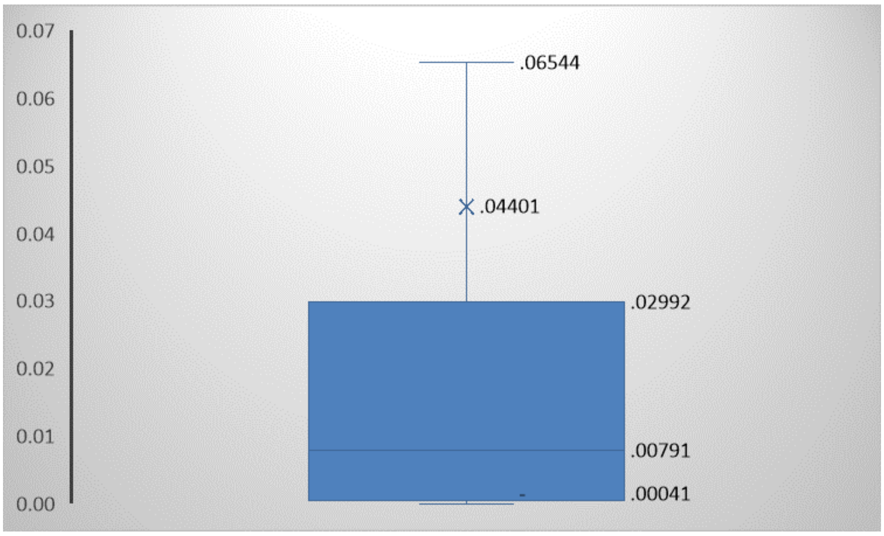
To answer the first question, the rationale adopted in the RTS has been to avoid inconsistencies between the items that make up the IC and those that are part of the AC. In other words, all the types of assets which generate interests should be included into the AC, since the interests generated by these assets contribute to the IC. Conversely, types of assets which do not generate interests, such as cash on hand, should not be part of the AC.

From this perspective, it follows logically that if derivatives result in 'assets' and generate interest, either income or expenses, they must be included in the AC.

As far as the second question is concerned, a full alignment with the Basel standards has been sought. Since the calibration of the ILDC in the BI, including the 0.0225 coefficient applied to the AC and acting as a cap, has been built – among others – on the derivatives amounts reported by the banks participating in the Basel QIS, and since these derivatives have most been likely reported at their fair value, the fair value should also be considered as a metric for these types of assets when calculating the AC. When marking-to-market a derivative contract results in a positive fair value, such a position is generally accounted for as a balance sheet asset. Therefore, assets resulting from the positive fair value of a derivative contract that produces interest, income or expenses should be included in the AC of the BI.

The EU-specific data collection via the Quantitative Impact Studies (QIS) process requested that participating banks provide data on their positions on 'interest-earning assets' or AC and their subcategory of 'derivatives with positive fair value' (hereinafter, 'derivatives'). The date indicated that derivatives comprise a minor part of the AC, i.e. 4.4% on (unweighted) average, except for six whose derivatives' participation was equal or greater than 25%. The existence of these outliers resulted in a median value (0.79%) that is much lower than the mean value (4.4%).

Figure 1: Share of 'Derivatives with positive fair values' in the positions of 'interest-earning assets', as of December 2023, 94 banks



Min	0.00%
Mean	4.40%
Q1	0.04%
Q2 (Median)	0.79%
Q3	2.99%
P10	0.00%
P20	0.00%
P30	0.17%
P40	0.51%
P50	0.79%
P60	1.75%
P70	2.83%
P80	3.46%
P90	4.78%
P100 (Max)	71.44%

When observing the share of derivatives among business model categories and categories of systemic importance, one could observe that the weighted average ratio of corporate-oriented institutions (15.66%) is much higher than the average for all banks (5.66%), while the latter is driven by the high weighting of GSIIs and OSIIs in the formulation of the global weighted average (4.98% and 4.70%, respectively).

It is worth noting that banks belonging to 'Other' (non-GSIIs, non-O-SIIs) and providing a wide spectrum of services, i.e. 'Universal' business model, exhibit the lowest portion of derivatives (1.01%), while 'Other' institutions that provide 'Corporate-oriented' services reported the highest share of derivatives (33.77%) (See Table below).

Table 5: Share of 'Derivatives with positive fair values' in the positions of 'interest-earning assets' per category of systemic importance and business model, as of December 2023, 94 banks

BANK GROUP	CORPORATE-ORIENTED	RETAIL-ORIENTED	UNIVERSAL	GRAND TOTAL
GSII			*4.98%*	*4.98%*
OSII	*2.35%*	*2.44%*	*4.95%*	*4.70%*
OTHER	*33.77%*	*2.39%*	*1.01%*	*14.92%*
GRAND TOTAL	*15.66%*	*2.40%*	*4.92%*	*5.66%*

The average marginal impact of the derivatives with positive fair value within the AC has been an additional element to justify the inclusion of such items within the AC, as in Article 3 (d) of the RTS on BI items.

Considerations on the Financial Component

An additional, relevant, point considered in the RTS is the definition of the financial component. In line with the Basel standards, the RTS have followed an accounting approach (AA) in defining the items of the trading book components and the banking book component. However, some institutions carrying out specific types of operations or making specific choices in terms of accounting approaches have suggested alternative practices – where applicable – for the discrimination between the profit and loss of the two books, based on the prudential boundary framework as set out by the CRR, in Part Three, Title I, Chapter 3. This is why both approaches to separate the profit and loss of the trading book component and the banking book component are provided for in the CRR, and why the EBA has been mandated to define the items of this component by taking into account the international regulatory standards and, where appropriate, the prudential boundary framework.

In line with the concept of appropriateness included in the legal text, the RTS have envisaged that the use of the prudential boundary framework (PBA in the RTS) is possible where some conditions are fulfilled, i.e. when the institution is actually carrying out operations/accounting choices eligible for the use of the PBA (e.g. when these operations/accounting choices give rise to an actual 'unwarranted increase' of the FC, if calculated under the AA criteria), and has implemented organisational requirements able to properly calculate the profit and loss of the trading and banking book components. When adopting the PBA, the use of this approach in combination with the AA is forbidden, to avoid cherry-picking between these two approaches.

The RTS also envisage, in Article 14, the reversal from the PBA to the AA. Although this possibility is not mentioned in the CRR, it is the obvious consequence when the conditions for the use of the PBA are no longer fulfilled. Moreover, it was deemed important in the RTS to discourage frequent switches from an approach to the other, so to limit the yearly selected use of the PBA or of the AA just for saving operational risk regulatory capital.

The EBA invited credit institutions that intend to submit comments during the consultation to complement these comments with the completion of the QIS templates that were circulated on 26 January 2024, to the participating banks for completion. To better understand whether a bank is using the AA or the PBA, the QIS data collection exercise requested the participating sample to report the position that results from what can be considered an approximation of the PBA ['Net profit (loss) on financial operations (trading book)' – row 21] and the one that the bank is using as the AA ['Gains or (-) losses on financial assets and liabilities held for trading, net' – row 23). Should they be identical, or close to each other, one may conclude that banks are using the AA, otherwise they would apply to the PBA. [12]

[12] 'Net profit (loss) on financial operations (trading book) – row 21' is considered an approximation of the Trading book component under the PBA, since the QIS instructions for this item (and consistently those for the item 'Net profit (loss) on financial operations (non-trading book)') state the following: '*To distinguish trading from non-trading books items, the criteria in the Committee's new Minimum capital requirements for market risk should be used' (Basel Committee on Banking Supervision, Minimum capital requirements for market risk, January 2019,* www.bis.org/bcbs/publ/d457.htm

This analysis, however, does not permit assessing whether the differences between the alleged PBA and the AA amounts are due to a proper interpretation of the concept of 'unwarranted increase', as indicated in paragraph 27 of these documents. Therefore, the outcome of the analysis should be taken with caution.

The EBA separately compared the trading book and the non-trading book positions.

Trading book

The comparison for the trading book indicated that more than 50% of the participating banks reported identical values in both sets of data, signifying that they tend to follow the AA (see 30th to 80th percentile in the Figure below). On the other hand, there are 27 banks (out of 97) that reported ratios of either above 2 or below 0.5, indicating that the reported values for the one approach are at least twice as much as the value for the other approach.

When it comes to the assessment of business models and categories of significant importance, 'Universal OSIIs' and 'Universal Other' institutions seem to generally follow the AA, while GSIIs generally deviate from the AA, indicating that they follow the PBA (see Table below).

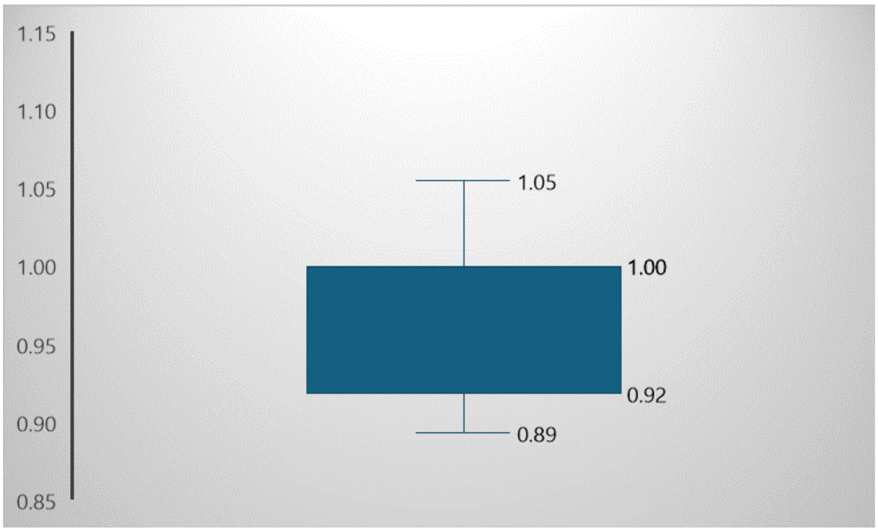
The assessment of the weighted average for all banks shows that the reported positions for AA and PBA, for the trading positions, deviate by 30% (a ratio of 1.30 – see Table below).

Therefore, it is assumed that the institutions have followed the prudential boundary regime to report amounts into the 'Net profit (loss) on financial operations (trading book)' and 'Net profit (loss) on financial operations (non-trading book)'.

Vice versa, the row 'Gains or (-) losses on financial assets and liabilities held for trading, net' – row 23" is taken from the FINREP; hence, by definition, it represents the Trading book component according to the AA. When this cell is identical or close to cell 21, it derives that the institution has not significantly deviated from the AA when feeding the Trading book component. If instead there is a relevant difference between rows 23 and 21, this can be caused by the use of the prudential boundary to report the Trading book component. Differences can also be caused by other reasons not easy to identify or justify, in particular when the approximated PBA amount is larger than the AA amount.

Similar considerations can be applied to the Non-Trading Book (see the following paragraph in the doc), i.e. when comparing the 'Net profit (loss) on financial operations (non-trading book)' – ideally reported in line with the BCBS market risk framework – with the sum of the relevant FINREP items, representing the AA for the Non-Trading book component.

Figure 2: Trading book: comparison of 'net profit (loss) on financial operations (trading book)' with 'gains or losses on net financial assets and liabilities held for trading', as of December 2023, 97 banks



Min	-118.99
Mean	8.10
Q1	0.92
Q2 (Median)	1.00
Q3	1.00
P10	0.00
P20	0.67
P30	1.00
P40	1.00
P50	1.00
P60	1.00
P70	1.00
P80	1.00
P90	1.68
P100 (Max)	781.25

Table 6: Trading book boundary: ratio of 'net profit (loss) on financial operations (trading book)' with 'gains or losses on net financial assets and liabilities held for trading' per business model and category of significant importance: as of December 2023, 97 banks

BANK GROUP	CORPORATE-ORIENTED	RETAIL-ORIENTED	UNIVERSAL	GRAND TOTAL
GSII			*1.58*	*1.58*
OSII	*1.21*	*-*	*1.00*	*1.01*
OTHER	*0.76*	*0.97*	*1.01*	*0.81*
GRAND TOTAL	*0.83*	*0.96*	*1.35*	*1.30*

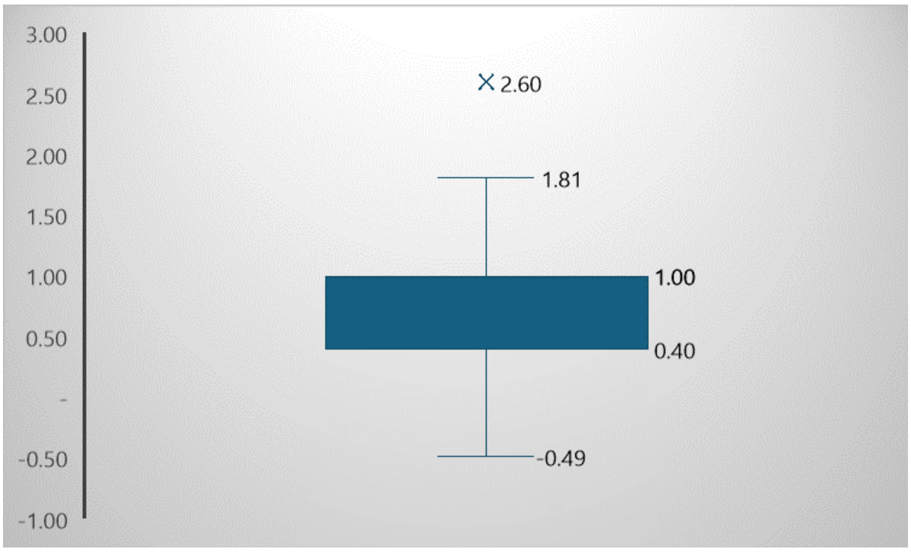
Non-trading book

To compare the non-trading book positions that correspond to the two approaches, the EBA compared the 'Net profit (loss) on financial operations (non-trading book)' on the one side, and the sum of the following items on the other side:

(a) Gains or (-) losses on derecognition of financial assets and liabilities not measured at fair value through profit or loss, net;
(b) Gains or (-) losses on non-trading financial assets mandatorily at fair value through profit or loss, net;
(c) Gains or (-) losses on financial assets and liabilities designated at fair value through profit or loss, net;
(d) Gains or (-) losses from hedge accounting, net;
(e) Exchange differences [gain or (-) loss], net.

Should the resulting ratio be unity, or close to it, the reported values would designate that banks follow the AA; otherwise, they tend to follow the PBA.

Figure 3: Non-trading book: comparison of 'Net profit (loss) on financial operations (non-trading book)' with the positions used by the accounting approach to identify non-trading portfolios, as of December 2023, 105 banks



Min	-35.28
Mean	2.60
Q1	0.40
Q2 (Median)	1.00
Q3	1.00
D1	-0.37
D2	0.14
D3	0.63
D4	1.00
D5	1.00
D6	1.00
D7	1.00
D8	1.12
D9	1.54
D10 (Max)	254.44

The comparison for the non-trading book indicated that 41 out of 105 banks reported identical values in both sets of data, signifying that they follow the AA (see 40^{th} to 70^{th} percentile in the figure above). On the other hand, there are 34 banks that reported ratios of either above 2 or below 0.5, indicating that the reported values for the one approach are at least twice as much as the value for the other approach.

When it comes to the assessment of business models and categories of significant importance, there is no specific business model, or category of significant importance, that generally follows the AA, although 'Universal GSIIs' and 'Universal OSIIs' indicate ratios that are close to one, evidencing that most of them follow the AA.

The assessment of the weighted average for all banks shows that the reported positions for AA and PBA of the non-trading positions deviate by 13% (a ratio of 1.13 – see Table below).

Table 7: Non-trading book: Ratio of 'Net profit (loss) on financial operations (non-trading book)' to the sum of positions used by the accounting approach to identify non-trading portfolios, as of December 2023, 105 banks

BANK GROUP	CORPORATE-ORIENTED	RETAIL-ORIENTED	UNIVERSAL	GRAND TOTAL
GSII			*1.11*	*1.11*
OSII	*1.17*	*1.54*	*1.16*	*1.17*
OTHER	*-1.75*	*-0.14*	*0.72*	*0.97*
GRAND TOTAL	*1.88*	*-0.12*	*1.13*	*1.13*

Under the assumption that the banks interpreted the QIS cells denoting the PBA and the AA in the correct manner (see footnote 12), the data showed that 13%–30% of the banks tend to deviate from the AA when reporting the items of the trading and non-trading book, although this deviation is not unidirectional.

This outcome was a further element that justified the inclusion in the RTS on BI items of certain conditions, as in Article 9(2), and an *ex ante* notification process to the competent authorities, as in Article 13, so to link the choice to use the PBA to objective criteria and to proper documentation and information, so to permit these authorities to properly assess and review this choice.

Additional data analysis

Assessment of the level of 'Other Operating Expenses' to Total Losses, averages over 2021–2023

The QIS exercise, as of December 2023, collected data on total 'Other Operating Expenses' (OE), but also on its subcategories of 'Expenses, losses and other financial impacts from operational risk events (excluding provisions)' (ORE) and 'Provisions [arising] from operational risk events' (P-ORE). It is noteworthy that, in most cases, the above-mentioned subcomponents are sub-additive to the OE, as the reporting banks have assigned other expenses or losses in the total amounts of OE. In addition, the EBA collected data for Total Gross Losses (TGL) and Total Net Losses (TNL), i.e. the losses that result from the difference in TGL and the associated recoveries (from insurance or other than insurance).

To better understand the interaction between OE and the value of losses, the EBA conducted the following analyses on the following ratios:

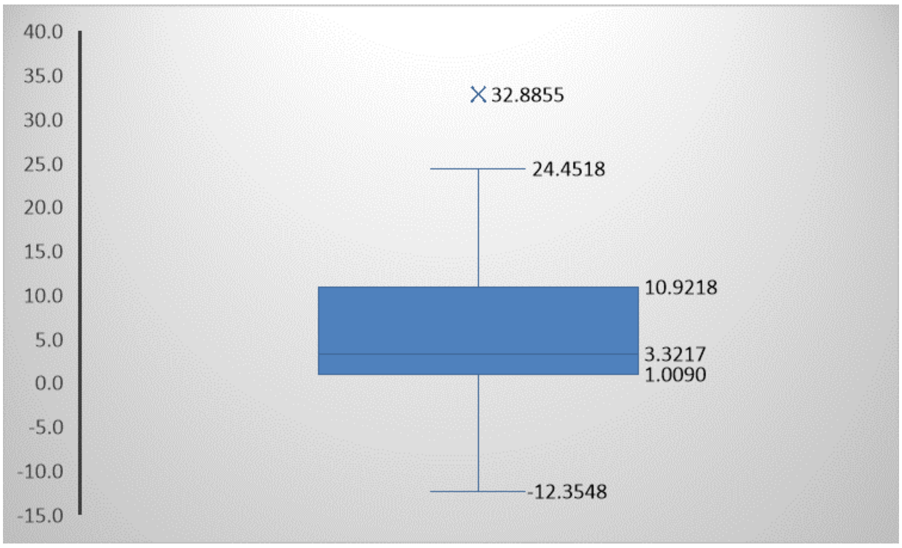
(a) Total OE to TNL;
(b) Total OE to TGL;
(c) The part of OE that corresponds to the sum of ORE and P-ORE to the TNL;
(d) The part of OE that corresponds to the sum of ORE and P-ORE to the TGL.

Total OE to TNL

The evidence as of December 2023 showed that, on average (unweighted), OE is 32.9 times the TNL. The median is 3.3 owing to the existence of 20 observations with values above 40 (NOT shown in the Graph below), of which eight observations exhibited OOE-to-TNL ratios of above 100.

On the other side, there were six banks with OE-to-TNL negative ratios, of which five case are attributed to the negative total net losses, i.e. total recoveries greater than total losses, while one bank reported negative OE.

Figure 4: Allocation of the ratio of 'Other operating expenses' to 'Total Net Losses' among banks, as of December 2023, 159 banks



Min	-30.8
Mean	32.9
Q1	1.0
Q2 (Median)	3.3
Q3	10.9
P10	0.0
P20	0.7
P30	1.3
P40	2.0
P50	3.3
P60	5.6
P70	8.5
P80	14.2
P90	55.9
P100 (Max)	1,623.1

Note: Qx (where x=1…3) indicates the quartile, while Py (where y=10…100) indicates the percentile.

The analysis below shows the allocation of OE-to-TNL ratios per business model and systemic importance of banks. The banks were allocated into three different business models (corporate-oriented, retail-oriented and universal services), and three categories of systemic importance (Global systemically important institutions (GSII), Other systemically important institutions (OSII) and other institutions).

One could observe that the weighted average ratio of corporate-oriented institutions (11.26) is much higher than the average for all banks (2.47), while the latter is driven by the high weighting of GSIIs and OSIIs in the formulation of the global weighted average.

Table 8: Ratio of 'Other operating expenses' to 'Total Net Losses' per category of systemic importance and business model, as of December 2023, 159 banks

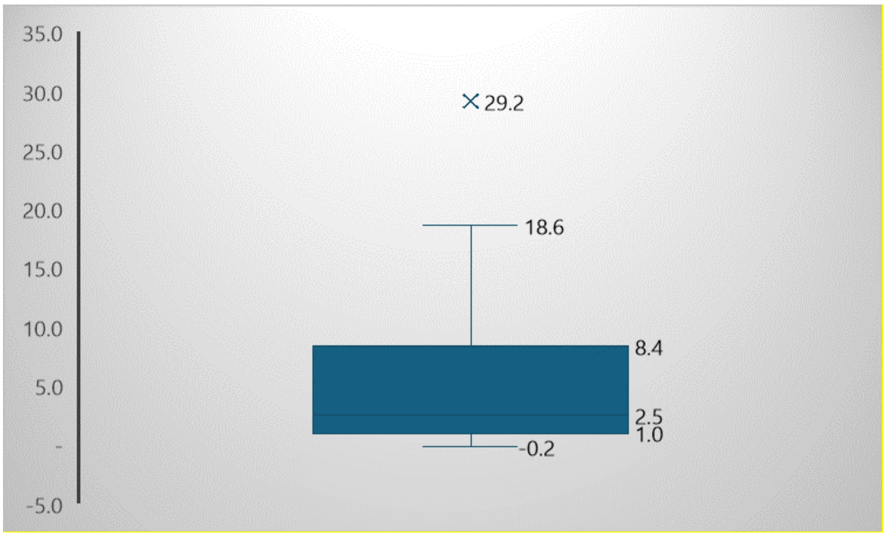
Bank group	Corporate-oriented	Retail-oriented	Universal	Grand Total
GSII			2.30	2.30
OSII	11.31	2.19	2.30	2.41
Other	11.08	6.93	2.12	4.66
Grand Total	**11.26**	**6.79**	**2.29**	**2.47**

Total OE to TGL

The analysis compared the OE with the TGL by calculating the ratio OE-to-TGL. The allocation of the ratios per bank showed that, on simple average, the OE is 29.2 times higher than the TGL. Given that the median of the same sample is 2.5, the simple average is highly affected by few extreme outliers, approximately 10% of the sample, which grades the average value upwards. These results are in line with the analysis on OE-to-TNL analysis.

The OE-to-TGL analysis per business model and systemic importance of banks exhibits the same trends among the bank categories, i.e. the ratio for Universal banks is much lower than the ratio for retail-oriented bank, while the respective metric for corporate-oriented banks is the highest among the business models. As expected, the absolute values of OE-to-TGL are consistently lower than the OE-to-TNL.

Figure 5: Allocation of the ratio of 'Other operating expenses' to 'Total Gross Losses' among banks, as of December 2023, 158 banks



Min	-0.2
Mean	29.2
Q1	1.0
Q2 (Median)	2.5
Q3	8.4
D1	0.0
D2	0.7
D3	1.3
D4	1.8
D5	2.5
D6	4.1
D7	6.6
D8	10.1
D9	37.9
D10 (Max)	1,623.1

Table 9: Ratio of 'Other operating expenses' to 'Total Gross Losses' per category of systemic importance and business model, as of December 2023, 158 banks

Bank group	Corporate-oriented	Retail-oriented	Universal	Grand Total
GSII			1.63	1.63
OSII	5.49	1.59	1.64	1.71
Other	3.97	3.64	1.06	2.33
Grand Total	**5.08**	**3.59**	**1.62**	**1.72**

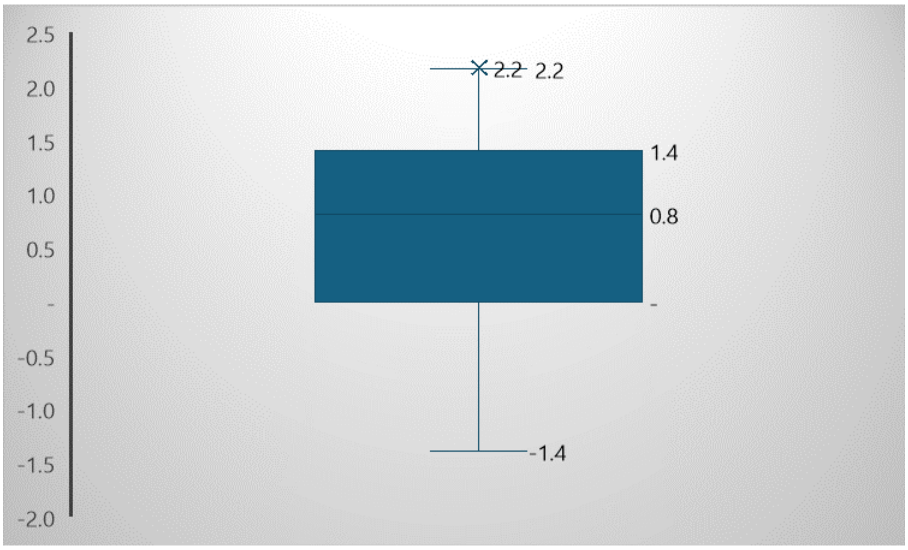
The part of OE, assigned to the sum of ORE and P-ORE, to the TNL

To assess more specifically the correct feeding of operational loss events within the OE, the analysis focuses on the ratio between the sum of 'Expenses, losses and other financial impacts from operational risk events (excluding provisions)' (ORE) and the related 'Provisions' arising from the aforementioned risk events (P-ORE), on the one hand, to TNL.

The evidence as of December 2023 showed that approximately 60% of the banks (median of 0.81, 60th percentile: 1.00) indicate that these two elements of OE amount to less than the TNL. However, except for the 40% of the banks that show a ratio of above 1.00, there are several outliers that showed ratios above 5.00 (approximately 10% of the sample).

When looking at the distribution of ratios amongst business models, one may observe that, in general, universal banks exhibit a ratio below 1.00, with the exception of Other (domestically) important institutions, which show a ratio of 1.07. The data showed that, on (weighted) average, 'Other' 'Corporate-oriented' banks indicated the highest ratio (1.95).

Figure 6: Allocation of the ratio 'sum ("OPE", "P-OPE") to TNL' among banks, as of December 2023, 87 banks



Min	-1.39
Mean	2.18
Q1	0.00
Q2 (Median)	0.81
Q3	1.41
D1	0.00
D2	0.00
D3	0.03
D4	0.49
D5	0.81
D6	1.00
D7	1.15
D8	1.46
D9	5.06
D10 (Max)	52.24

Table 10: Ratio of 'sum ("OPE", "P-OPE") to TNL' per category of systemic importance and business model, as of December 2023, 86 banks

Bank group	Corporate-oriented	Retail-oriented	Universal	Grand Total
GSII			0.60	0.60
OSII	0.84	0.17	1.08	1.07
Other	1.95	0.51	0.86	0.75
Grand Total	**1.08**	**0.50**	**0.88**	**0.88**

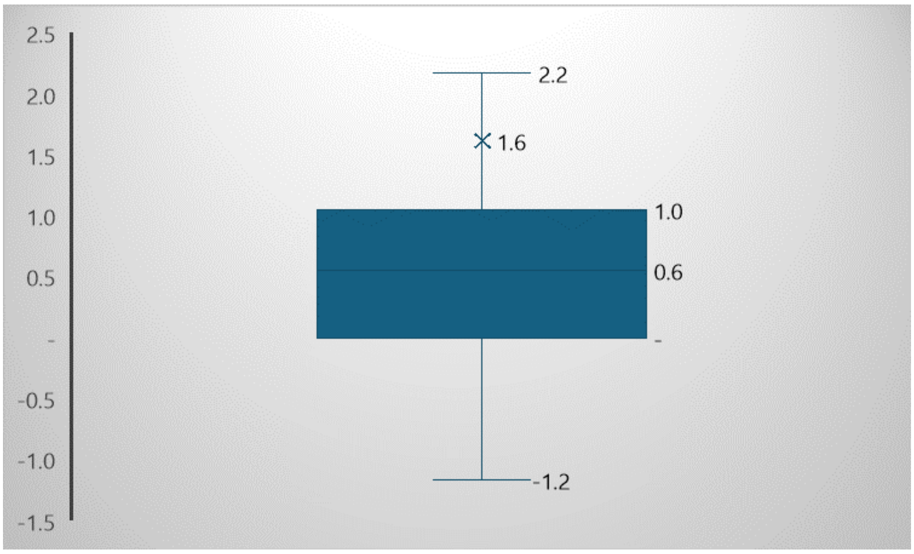
The part of OE, assigned to the sum of ORE and P-ORE, to the TGL

To get additional evidence on the correct feeding of the OE with operational risk losses, the EBA conducted an additional analysis by calculating the ratio of the sum of 'Expenses, losses and other financial impacts from operational risk events (excluding provisions)' (ORE) and the related 'Provisions' arising from the aforementioned risk events (P-ORE) to TGL.

The evidence as of December 2023 showed that more than 70% of the banks (70th percentile: 0.95) indicate that these two elements of OE amount to less than the TGL. However, except for the more than 20% of the banks that show a ratio of above 1.00, there are seven outliers that showed ratios above 5.00. Moreover, there were three banks which reported negative values, which clearly shows misreporting.

When looking at the distribution of ratios amongst business models, one may observe that, on (weighted) average, all bank groups exhibit a ratio below 1.00.

Figure 7: Allocation of the ratio 'sum ("OPE", "P-OPE") to TGL' among banks, as of December 2023, 87 banks



Min	-1.17
Mean	1.62
Q1	0.00
Q2 (Median)	0.56
Q3	1.05
D1	0.00
D2	0.00
D3	0.04
D4	0.24
D5	0.56
D6	0.79
D7	0.95
D8	1.26
D9	2.17
D10 (Max)	32.47

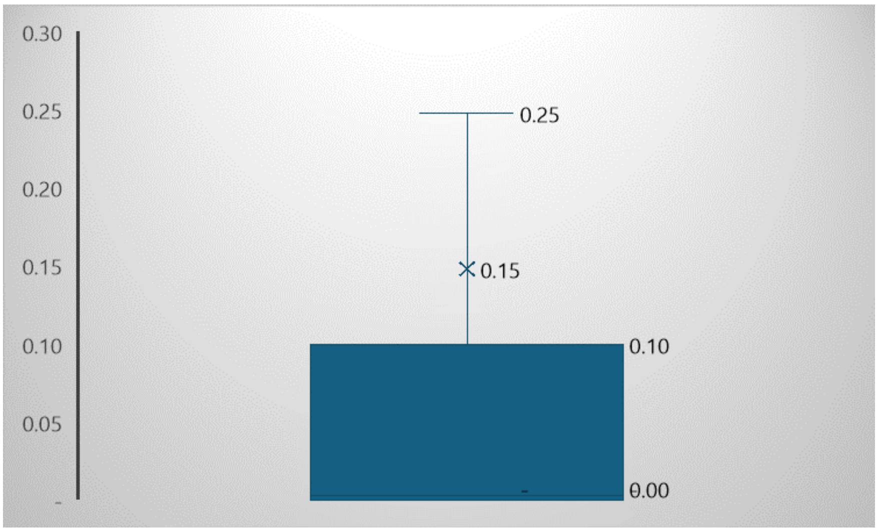
Table 11: Ratio of 'sum ("OPE", "P-OPE") to TGL' per category of systemic importance and business model, as of December 2023, 86 banks

Bank group	Corporate-oriented	Retail-oriented	Universal	Grand Total
GSII			0.42	0.42
OSII	0.41	0.12	0.77	0.76
Other	0.70	0.27	0.43	0.38
Grand Total	**0.49**	**0.26**	**0.62**	**0.61**

After comparing the TNL or TGL with the sum of subcategories of OE that correspond to the 'Expenses, losses and other financial impacts from operational risk events (excluding provisions)' (ORE) and the related 'Provisions' (P-OPE), the data showed that 20%–40% of the banks tend to underestimate the operational risk losses within the BI. This corroborates the decision to have specific evidence of the operational risk losses within the BI and hence to request banks, in the RTS on BI items, to break down operational risk financial impacts in OE, as in Article 6(1)(d).

Share of insurance recoveries in total recoveries

Figure 2: Allocation of the share of insurance recoveries in total recoveries per bank, as of December 2023, 125 banks



Min	0.00%
Mean	14.80%
Q1	0.00%
Q2 (Median)	0.26%
Q3	9.96%
D1	0.00%
D2	0.00%
D3	0.00%
D4	0.00%
D5	0.26%
D6	1.77%
D7	5.05%
D8	15.28%
D9	75.24%
D10 (Max)	100.00%

Table 12: Share of insurance recoveries in total recoveries per business models and systemic importance of banks, as of December 2023, 125 banks

Bank group	Corporate-oriented	Retail-oriented	Universal	Grand Total
GSII			1.92%	1.92%
OSII	3.37%	19.60%	1.73%	1.80%
Other	3.26%	6.11%	0.33%	2.90%
Grand Total	**3.33%**	**6.27%**	**1.73%**	**1.95%**

The above-mentioned analysis shows that recoveries other than insurance form a large part of total recoveries or, otherwise stated, the insurance recoveries are only a small part of the total recoveries. This finding, in conjunction with the non-marginal difference between OE-to-TNL and OE-to-TGL (see Analysis 1), justified the EBA's policy, as reflected in the RTS, to request banks to include in the OE the losses net of other than insurance recoveries (new Article 6(2)(a)).

Share of amount of net losses boundary with credit/market and pending

Data as of December 2023, 97 banks	
Share of amount of net losses related to credit risk but not accounted in credit RWA:	9.95%
Share of amount of net losses related to market risk:	2.39%
Share of amount of pending losses:	0.43%

The boundary losses with credit risk not accounted for in credit RWA represent a not marginal part of the total net loss amount, i.e. 10%, much larger than the share of net losses related to market risk. This finding is a further element supporting the decision to add 'Impairment or (-) reversal of impairment' to the list of explicit items as breakdown of operational risk financial impacts in OE, as in Article 6(1)(d)(vii). Indeed, operational risk losses closely related with credit risk activity are typically accounted for in FINREP items F02 460 ['Impairment or (-) reversal of impairment on financial assets not measured at fair value through profit or loss'] and F02 510 ['Impairment or (-) reversal of impairment of investments in subsidiaries, joint ventures and associates'].

Technical standards in Article 314(10) of the CRR

The ITS on the mapping of BI items to specific FINREP cells imply only negligible impact and are only limited to a marginally additional operational burden for NCAs in identifying the FINREP items that should be mapped. Since institutions are already required to complete FINREP templates, the EBA does not anticipate any relevant additional operational burden for them. The only additional operational burden will be borne by the EBA and the national competent authorities (NCAs). The EBA shall provide the mapping, and possibly prepopulate the COREP templates, while the NCAs shall double-check the correctness of the populated data and sign off the amounts for further use for analysis.

All in all, it has been considered disproportionate to conduct a fully-fledged IA analysis on the impact of the implementation of the ITS, provided that the impact, if any, will be close to zero for the institutions, whereas it will be negligible for the EBA and the NCAs.

Technical standards in Article 315(3) of the CRR

Article 315(3) of the CRR mandates the EBA to specify 'how institutions shall determine the adjustments to the business indicator (point (a) referencing mergers, acquisitions and disposals), 'the conditions according to which competent authorities may grant the permission' and 'the timing of the adjustments' (points (b) and (c) referencing disposals only).

The EBA is mindful of the objective that the adjustment methods addressed in the current RTS should make sure that the adjustments, in cases of mergers or acquisitions and the conditions under which an entity or an activity can be excluded, are tailored to the institution's effective risk profile. That said, the RTS aims at ensuring sufficient harmonisation across the EU and realistic operational implementation of the prudential requirements. To achieve those objectives, the following aspects were especially considered by the EBA when drafting the RTS:

- Calculation of the business indicator adjustment: The determination of the adjustment value should consider that historical information related to purchased entities or activities may not be available or accurate. While the EBA's baseline is the use of audited financial information over the last three years, and to ensure sufficient harmonisation, the EBA provides two ranked alternative calculation approaches. These alternative approaches should only apply for mergers and acquisitions given that, for disposals, the institution has the information to determine, precisely, the items to be excluded.

- Conditions for granting permission to exclude disposed entities and activities: In the context of disposals of entities or activities, and while the activities are transferred, specific arrangements may have been entered into, with a view to allow the acquiring entity to receive indemnity in case of new liabilities or asset deterioration arising from events occurring prior to the transaction. The disposing entity may therefore remain liable to some extent for events that occurred during the years preceding the transactions and revealed afterwards. The disposing entity may also face additional operational risks related to possible reorganisation aspects of the operation (e.g. reduction of resources dedicated to operational risk management and business restructuring). There are therefore situations in which it may not be considered reasonable for an institution to exclude items of a disposed entity from its BI and operational risk capital requirements.

When assessing the proposals for the adjustments on BI due to mergers, acquisitions and disposals of entities and activities, as well as the conditions for granting permission to exclude disposed entities and activities, the EBA considered only the options that are not expected to have or imply a detrimental effect on the total operational cost of the preferred solutions, while at the same time these solutions represent the risk profile of the institutions.

While financial statements should exist for standalone entities, it is not necessarily the case for businesses/activities. It was therefore considered necessary to make a distinction between the treatment of entities vis-à-vis the treatment of activities, with respect to financial information to be used for the adjustment. Thus, for acquisition related to activities, it was considered that the most accurate information would be the financial information used for the final valuation (i.e. considered by the institution’s management body when approving the acquisition), which is subject to intense scrutiny by all the parties to the transactions and which, in principle, shall always be documented.

However, to cope with cases where the expected financial information is not available or accurate, for instance, when the acquired entity transfers some of its activities prior to the operation, EBA proposes to request institutions to use alternative approaches, according to a clear rank. The rationale is that in the absence of reliable historical information, the EBA deems important to ensure that the adjustment is not underestimated and represents the riskiness of the activity, while using very simplified calculations to avoid complexity for the involved institutions. The EBA does not consider efficient, for minimum harmonisation purposes, to provide the possibility to use any other alternative deemed relevant by the institution or the competent authority.

In cases of disposals of activities, the EBA considers that the disposing institution has all the information needed to reflect them and therefore there is no need to provide an alternative calculation method.

Finally, the question of implementing a materiality threshold has been the subject of an impact assessment. It had to be decided whether to implement a materiality threshold, and if so, or which types of transaction (M&A, disposals). Two objectives prevailed in the decision: i) to maintain a prudential approach (i.e. capital requirements in line with risk profile) and ii) to reduce the administrative burden, for both institutions and competent authorities.

With regards to a materiality threshold for M&As, the burden concerning the BI adjustments for M&As comes only from the calculation of the BI adjustment, as there is no permission to ask for. However, in order to know whether the threshold has been crossed, the institution must in any case calculate the impact on the BI. On top of this, the alternative methods proposed for the calculation of the adjustment provide for options regarding the calculation even when data are insufficient. Finally, implementing a threshold on M&A would only represent a temporary delay of an increase in capital requirements.

For disposals, however, a threshold is appropriate. The threshold on disposals would simplify the process both for institutions, as well as for competent authorities. In addition, as the RTS has to specify 'the conditions under which competent authorities are able to grant the permission […] to exclude from the BI amounts related to disposed entities', a threshold on disposal is perfectly in line with the mandate as it would constitute a condition to grant the permission.

An impact analysis based on the data collected via the QIS monitoring exercise was carried out. The intention was to analyse how many requests for permission could fit below different levels for the threshold. In line with the data (see table below), the threshold has been set at 5.0% of the net operating income (NOI). More than two thirds of potential requests could fit below a threshold of 5%. In addition to that, the 5% threshold would impact the BIC capital requirement at most by 0.9% (for institutions with a BI > EUR 30 bn and a total annual net operating impact of disposals just below the threshold), if we assume that the NOI can be used as a proxy for the BIC. With respect to the institution's total capital requirements, the impact of this is negligible.

3

Proposed materiality threshold of X% NOI impact				
Number of available data (/ratios)	17	13	28	58
THRESHOLD SCENARIOS				
Number of ratio under 0,5%	2	0	8	10
Number of ratio under 1,0%	4	2	11	17
Number of ratio under 2,0%	6	5	15	26
Number of ratio under 3,0%	11	8	17	36
Number of ratio under 4,0%	11	9	18	38
Number of ratio under 5,0%	12	9	19	40

REDUCTION OF BURDENSOME				
Percentage of banks below the 0.5% threshold among all banks reporting a ratio	11,8%	0,0%	28,6%	17,2%
Percentage of banks below the 1.0% threshold among all banks reporting a ratio	23,5%	15,4%	39,3%	29,3%
Percentage of banks below the 2.0% threshold among all banks reporting a ratio	35,3%	38,5%	53,6%	44,8%
Percentage of banks below the 3.0% threshold among all banks reporting a ratio	64,7%	61,5%	60,7%	62,1%
Percentage of banks below the 4.0% threshold among all banks reporting a ratio	64,7%	69,2%	64,3%	65,5%
Percentage of banks below the 5.0% threshold among all banks reporting a ratio	70,6%	69,2%	67,9%	69,0%

CAPITAL REQUIREMENTS IMPACT
(only for 1 or 2 years)

E.g bank with €10bn of capital req.

Threshold scenarios (% NOI)	Capital req.	10,5% (P1 + CCoB)
na	100,00%	10 000 000 000 €
0,5%	0,05%	4 761 905 €
1,0%	0,10%	9 523 810 €
2,0%	0,19%	19 047 619 €
3,0%	0,29%	28 571 429 €
4,0%	0,38%	38 095 238 €
5,0%	0,48%	47 619 048 €

Proposed materiality threshold of X% NOI impact	Year 2021	Year 2022	Year 2023	TOTAL
Number of available data (/ratios)	17	13	28	58
THRESHOLD SCENARIOS				
Number of ratio under 0,5%	2	0	8	10
Number of ratio under 1,0%	4	2	11	17
Number of ratio under 2,0%	6	5	15	26
Number of ratio under 3,0%	11	8	17	36
Number of ratio under 4,0%	11	9	18	38
Number of ratio under 5,0%	12	9	19	40

REDUCTION OF BURDENSOME				
Percentage of banks below the 0.5% threshold among all banks reporting a ratio	11,8%	0,0%	28,6%	17,2%
Percentage of banks below the 1.0% threshold among all banks reporting a ratio	23,5%	15,4%	39,3%	29,3%
Percentage of banks below the 2.0% threshold among all banks reporting a ratio	35,3%	38,5%	53,6%	44,8%
Percentage of banks below the 3.0% threshold among all banks reporting a ratio	64,7%	61,5%	60,7%	62,1%
Percentage of banks below the 4.0% threshold among all banks reporting a ratio	64,7%	69,2%	64,3%	65,5%
Percentage of banks below the 5.0% threshold among all banks reporting a ratio	70,6%	69,2%	67,9%	69,0%

CAPITAL REQUIREMENTS IMPACT (only for 1-3 max. years)	Threshold scenarios (% NOI)	Impact on capital req. for OpRisk	Impact on total capital req.
Assumptions:	0,5%	0,5%	0,1%
i) NOI is a proxy of capital requirement for OpRisk	1,0%	1,0%	0,1%
ii) OpRisk accounts for 10% of RWAs	2,0%	2,0%	0,2%
	3,0%	3,0%	0,3%
	4,0%	4,0%	0,4%
	5,0%	5,0%	0,5%

5.2 Feedback on the public consultation

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

The consultation period lasted for 3 months and ended on 21 May 2024. 17 responses were received, of which 12 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 response to different questions. In such cases, the comments, and EBA analysis are included in the section of this paper where EBA considers them most appropriate.

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

Summary of key issues and the EBA's response

The 17 respondents to this public consultation have provided a significant number of comments on all three technical standards presented in the Consultation Paper (CP). The feedback analysis has been organised along the lines of the questions asked in the CP, with an additional section on General comments and comments related to/with implications for the reporting framework. It has been apparent that the simultaneous publication of the CP on policy mandates and the CPs on reporting and transparency has drawn mixed comments addressing policy and reporting issues in all three CPs and consequential efforts were put into disentangling the nature of the comments. Finally, given the nature of the RTS on BI components and the ITS on mapping to FINREP, the comments made, as well as the EBA clarifications, tackle both the definitions, as well as the FINREP mapping of the items discussed. Please find below a summary of the key issues for each of the questions included in the CP.

For the section on general comments and comments related to/with implications for the reporting framework, two topics should be mentioned: i) clarifications regarding the first reporting date, and ii) the frequency of calculation of the BIC. The EBA has clarified, in line with the ITS on Supervisory Reporting (see paragraph 141(c) of the Supervisory Reporting Instructions on the Operational Risk Templates), the update of the calculation of the BIC is on annual basis, at the end of the financial year. This figure is then also used for the three following quarters and no recalculation must be done in the absence of M&A or disposal of entities and activities. On the frequency of calculation of the BIC, the EBA has confirmed that the update of the calculation of the BIC is on annual basis, at the end of the financial year. This figure is then also used for the three following quarters.

Regarding the comments on Question 1 on the ILDC, one notable comment referred to the use of the 'clean' vs 'dirty' price for FINREP reporting and the implications for institutions using one or the other approach when calculating the ILDC, but also the FC. The EBA has clarified that the application of the clean or dirty price approaches constitutes an accounting option for the institutions. Furthermore, this choice should be consistently applied in FINREP for all financial instruments measured at fair value through profit or loss and for hedging derivatives classified in the category 'hedge accounting' (see FINREP Annex 5, Part 2, para. 31). Consequently, the BI, as an accounting-based method, mirrors the P&L to calculate the relevant components, avoiding the possibility to arbitrage between both options just to reduce capital requirements.

On Question 2 on the SC, comments have targeted the items on 'Outsourcing fees', 'Fees and commissions', 'Other operating expenses' and 'Other operating income'. Clarifications from the EBA were brought to the elements discussed in the CP and in some cases, marked in the feedback table, changes were brought to the legal text of the technical standards to accommodate the comments received.

On Question 3 on the FC, two topics should be highlighted here: i) the unwarranted increase as the basis for the choice of application of the PBA, and ii) the scope of application of the PBA within a group. With regards to the former, the EBA highlighted that the FC is the annual average of the absolute values over the last three financial years of the net profit or loss, so only in cases where the institution has not observed any unwarranted increase in the FC in three consecutive years (i.e. from T1 to T3), a reversal to the AA (i.e. in T4) is mandatory. This period is sufficiently long to justify that certain types of operations and/or accounting choices that had caused an unwarranted increase in the FC are no longer relevant for the institution, for example because they have been dismissed. On the latter point, the EBA clarifies that the PBA should be applied at institution level, either at the whole consolidation level or at as solo level, and no partial use is possible.

Regarding Question 4 on exclusions from the BIC, comments revolved around 'Extraordinary/irregular items' such as profits and losses from the sale of non-trading book items/extraordinary items, the EBA maintained a stance in line with the CRR, which does not envisage the exclusion of extraordinary or irregular items from the BI, following the logic in the BCBS revised standard on operational risk.

On Question 5 regarding the FINREP mapping, contrasting comments were made regarding the granularity of the mapping (calls for more, as well as for less, granularity), calls were made for making the mapping non-mandatory, as well as inquiries about the mapping to FINREP at solo vs consolidated levels. With regards to the last point, the EBA acknowledged the difficulties posed by the different scope of supervisory reporting, and for those FINREP templates, not including in the full FINREP scope, an alternative, less granular, mapping will be provided. Thus, the ITS on Reporting will reflect this accordingly. Finally, it should be noted that some of these comments were also made in the context of the draft RTS on adjustments to the BI due to M/A/disposals.

The remainder of the Questions in the CP (i.e. Questions 6 to 11) target the third technical standard in the CP, the draft RTS on adjustments to the BI due to M/A/disposals.

Under Question 6 on the financial statements used for the final valuation, the EBA was asked to clarify that the legal text refers to external audited financial statements, to clarify the methodology for intragroup transactions and further specify the timing for adjustments.

Question 7 on the three approaches for the calculation of the adjustment yielded several competing suggestions on how to approach the alternative calculation of the adjustments. The EBA acknowledges the point and proposes the legal text provides approach 'c)' first, and then, only if this approach is not feasible due to lack of data, the approach 'b)' could be used. This would also imply deleting approach 'a)'.

In relation to Question 8 on the method for disposals, a couple of points were made on the impact of an absence of permission and the case of delayed reaction of the NCA.

While Questions 9 to 11 tackle the possibility of introducing (and the operationalisation of) a materiality threshold for adjusting the BI following M&As, a number of comments received have also focused on the introduction of a threshold for disposals. The EBA has analysed the comments and included associated answers and subsequent changes in the draft legal text, as well as providing an overview in the Background and Rationale and impact assessment section.

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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments and comments related to/with implications for the reporting framework			
First reporting date	The Consultation Paper (EBA/CP/2024/07) does not make any particular statements about the first reporting dates using the new approach. The provisions in Annex II, Chapter 4.1.3 of this CP on how to proceed in case of non-availability of historical data, seem to be only partially applicable for the transition to the new approach, as outlined here. We believe it is necessary to include facilitations for the phasing-in period of the new reporting requirements, i.e. the first two years after the entry into force of CRR III, namely: 1. A waiver of retroactive adjustments of the FINREP figures for YE 2023 and YE 2022 regarding M&A transactions should be granted. It should be possible to refrain from collecting and preparing data for M&A transactions, which took place in the longer past.	For detailed information on expectations at the first reporting date after the date of application of the CRR3, please refer to the EBA communication here: https://www.eba.europa.eu/publications-and-media/press-releases/eba-updates-supervisory-reporting-framework As evidenced by the communication in the link above, the steps taken by the EBA with regards to the reporting framework and its interaction with the policy development phase should already provide relaxed conditions for the first reporting dates and allow institutions to ease into the new requirements; therefore further phasing-in measures are not considered necessary at this stage. Nonetheless, the institution's observations on the completion of Table 16.02	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	2. In line with Annex II (EBA/CP/2024/07), Chapter 4.1.3, Text 149, breakdowns that cannot be derived from FINREP reports may be determined on a best effort basis. For example, breakdowns in the trading or banking book may be estimated if not available. Furthermore, the methodology of the new BI approach and the corresponding reporting template C16.02 (see EBA/CP/2024/07) require the computation of the business indicator and the preparation of the detailed reporting template C16.02 for each of the last three financial year ends. In our understanding, this implies that for the first reporting date of 31.3.2025, the figures for YE 2024, YE 2023 and YE 2022 must be processed in retrospect. Even if FINREP reports are available for these reporting dates, the reporting data are not available in the granularity required for the preparation of the reporting form C16.02. In cases of deviations from the existing FINREP reporting (in particular concerning adjustments for M&A) the retroactive data provision will be very burdensome and difficult. The temporary solution could also explain how to calculate the indicator in the interim	will be assessed when finalising the related ITS on Supervisory Reporting.	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	period of first 3 years of the RTS application. This interim regulation should accept the methodology of calculation for the years 2022-2024, as the rules were in force in this period and it should avoid recalibrating date for these years for the BI computation in the year 2025, 2026 and 2027.		
Audited financial statements	Respondents request the opportunity to calculate the BICs based on 31/12/N-1 for all remittances of the year (i.e. from Q1 N to Q4 N) and shift only at Q1 N+1 instead of Q4 N. These audited statements for the most recent year (e.g. 2023) flowing into the FINREP reporting are only available by the end of March of the following year (e.g. end-of-March 2024, please refer to FINREP reporting schedule for reference). This is too late for the calculation of the OR RWA as of the previous year-end (e.g. 2023), because publication dates of year-end results requiring OR RWA input cannot be met on 31 December. Also, banks expect delays of multiple weeks until they can provide the audited numbers.	The methodology for the calculation of the BIC is stated in Article 314 of the CRR. In line with the ITS on Supervisory Reporting (see paragraph 141(d) of the Supervisory Reporting Instructions on the Operational Risk Templates), where audited figures are not available, institutions may use business estimates.	No changes made
Interaction with the disclosures framework	Regarding template OR1, the mapping to supervisory reporting is not provided yet; it	There is currently no correspondence between OR1 and the C17 templates. The reporting templates for the losses	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	would be helpful for institutions to understand whether EBA is planning to establish such correspondence and by when.	from operational risk will be developed in a second stage, as explained in Section 2.2.8.3. of the ITS on Supervisory Reporting.	
Frequency of calculation of the BIC	On reading the EBA proposal, we understand that, apart from the merger/acquisition/disposal events, the result of the operational risk capital requirements is expected to be identical for a full year. We would be grateful if the EBA could confirm our reading as templates C16 are required quarterly. We would like to have more alignment between operational risk reporting and FINREP. In current shape, we need to prepare separate reporting processes, every time verifying: - Appropriate classification of lease items; - Appropriate division between banking and trading book; - Appropriate reporting of costs connected with operational risk events; - Calculation of some items from F 21 as there is a threshold, which allows for not calculating it at the level of sub-consolidated FINREP reporting;	As indicated in the ITS on Supervisory Reporting (see para. 141(c) of the Supervisory Reporting Instructions on the Operational Risk Templates), the update of the calculation of the BIC is on annual basis, at the end of the financial year. This figure is then also used for the three following quarters and no recalculation has to be done in the absence of M&A or disposal of entities and activities (e.g. for the reporting date ‘December Y-1, March Y, June Y, September Y’ and a financial year – end ‘December 31’, the calculation is based on the financial situation as at ‘December 31’ using the whole financial years Y-1, Y-2 and Y-3).	No changes made

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	One process can be easier to manage but will force banks to report additional data quarterly instead of yearly.		
Frequency of calculation of the FC	It is unclear whether the update of the Financial Component will be synchronised with the proposed timing of the update.	The update of the Financial Component has to be done at the time the BI is updated.	No changes made.
Responses to questions in Consultation Paper EBA/CP/2024/05			
Question 1. What are your views with regards to the proposal for the ILDC component? Please explain and provide arguments for your answer.			
Asset Component (AC) – F18 impairments	(Article 3 of the RTS on BI items) (p. 34): The described 'total assets' comprise gross carrying amount positions and carrying amount positions. However, total assets are defined as carrying amount. In order to deliver reliable data, all required positions which relate to template F18.00 should include column 0130 'accumulated impairment'.	Article 314(2) of the CRR states that the Asset Component (AC) is based on the 'total gross outstanding' of certain assets. Therefore, the RTS on BI components reflects this approach. While the assets included in the Balance Sheet are typically expressed at their carrying amount (which already includes the accumulated impairment), the objective of the AC within the BI is, however, to refer only to the gross outstanding nominal amount of those assets that	Article 3(d) of the RTS (and the related ITS) amended to clarify that, the definition of interest-earning assets in the RTS/ITS, also refers to cases where derivatives do not generate or accrue interest but have a similar flow to the P&L (e.g. Interest Rate derivatives, where the flow to the P&L is given by the difference between the fixed and variable legs)

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		have an impact in the Interest Component (IC) which are known as Interest Earning Assets (IEA). According to the IFRS 9, the interests stemming from the IEA are calculated based on the nominal amount with the relevant interest rate (typically at amortised cost). To obtain the carrying amount, then the Expected Credit Loss, ECL, of relevant stage (1, 2 or 3) is considered. So, the impairment is not relevant, since the AC is not looking for the carrying amount of the financial instruments in the Balance Sheet but for the IEA irrespective of the ECL.	
AC – F18 accrued interests	In rows related to interest-bearing assets, the standard gives reference to gross carrying amounts in F18. As it is very well known, the gross carrying amounts include principal amounts that bear the interest and accrued interest, which is the interest itself generated by the principal amount. Considering the idea of the regulation that, in essence, wants to cap the amount of net interest income with 2.25% of the interest-bearing assets in order to avoid unwarranted opera-	There are three points to be considered: - the BCBS calibration of the coefficient for the interest-bearing assets (0.0225) was done by considering those assets, as reported in the Basel III monitoring exercise carried out by the BIS. Those assets were reported by not disentangling the principal amounts from the accrued interests; therefore, the same aggregate should be used for the calculation of the	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	tional risk amounts derived from high-interest-margin countries, we believe that the entities when deriving the amounts from their F18 reports should isolate the amount of interest accruals included inside the gross carrying amounts in order to avoid double counting. This exact same concern applies to debt securities as well.	BI regulatory capital (i.e. if a different aggregate should be used, this would be inconsistent with the 0.225 coefficient calibrated by the BCBS); - the low materiality of the accruals with regard to the principal amount of loans/total assets; - in FINREP it is not possible to disaggregate into the assets side the principal amount from the accrued interest pending being earned in the P&L account.	
AC – Cash balance at central banks and other demand deposits	The respondents had several comments regarding this position: - Article 3 (a) of the RTS and corresponding Article of the ITS state that the 'gross carrying amount of cash balance at central banks and other demand deposits' is also part of the sum that determines the Asset component. In our view this item should be removed from the corresponding component lists. - The position 'a) Cash balances at central banks and other demand deposits' does not contain 'cash on hands' (ref. F01.01. Cash, cash balances at central banks and other demand deposits).	Cash balance at central banks and other demand deposits should be included, since they typically generate interest income. Cases where interest is not generated are marginal. 'Cash on hands' is not considered either in the IC or in the AC within the RTS on BI. The balance sheet line that is being considered is 'Cash balances at central banks and other demand deposits,' which is related with F.01.01 rows 30&40.	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	- The definition of 'interest-earning assets' still contains a substantial portion of assets which are non-interest earning, primarily from brokerage receivables (predominantly settlement balances) and non-interest earning deposits with central banks and other banks. Specifically, we suggest that for the two relevant FINREP items (F18_010_005 Cash balance at central banks and other demand deposits as well as F18_010_070 Loans and advances), additional clauses ('only those earning/bearing interests') like derivatives (FINREP F_1.1_10_60) shall be introduced to only capture the interest-earning parts, ensuring an adequate measurement.		
AC – Derivative contracts	Respondents made the following suggestion to replace the FINREP cells listed below with other ones, as they better fit into the definition contained in the ITS: - From Financial assets held for trading – Derivatives (F01.01_r0060_c0010 – only those earning/bearing interests), Trading Financial Assets – Derivatives (F01.01_r0092_c0010 – only those earning/bearing interests)	The objective of the FINREP mapping is to get into the IEA all the interest rate derivatives and not only those pointed out by tables FINREP F10/F11, which might not include all the range of derivatives contracts institutions can have. This is the reason why the mapping is done with Table F1.01 instead of the breakdown tables F10&F11.	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	To Financial assets Held for trading and trading – Interest Rate (F10.00_r0010_c0010) AND - From Derivatives – Hedge Accounting (F01.01_r0240_c0010 – only those earning/bearing interests) To Derivatives – Hedge Accounting – Assets – Interest Rate (F11.00_r0010_c0010)		
AC – Lease Assets	There is a need to check for double counting. The row 'profits from leased assets, including gains from lease modifications' and 'losses from leased assets, including losses from lease modifications' are mapped to: (i) F02.00_r0425_c0010 (only from leased assets) and (ii) F45.3_r0040_c00010/c0020 (only from leased assets).	Annex V Reporting on Financial Information states that 'it shall include the amounts arising from adjusting the gross carrying amounts of financial assets to reflect the renegotiated or modified contractual cash flows'. For a financial lease contract, a financial asset is accounted so if a renegotiation occurs, the impact of such a renegotiation related to the financing of a leased asset should be accounted for here.	No changes made.
AC – Lease Assets	Regarding F02.00_r0425_c0010, we noted this cell is linked to 'Modification gains and losses, net'. According to Annex V Reporting on Financial Information 'it shall include the	The cells mentioned (F45.03_r0030) are already mapped by a different item, so it	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	amounts arising from adjusting the gross carrying amounts of financial assets to reflect the renegotiated or modified contractual cash flows'. In our view this concept does not refer to leased assets and in consequence it should not be considered in the mapping tool.	is not possible to use these cells for this mapping. The EBA proposal with regards to (i) F02.00_r0425_c0010 (only from leased assets) is appropriate because – according with IFRS 16 para. 67-69 (similar to the former IAS 17, no longer valid), when the bank is the lessor in a finance lease contract, a financial asset should be accounted for, and if there is a substantial renegotiation of the key terms of the lease contracts according with IFRS9 there could be a gain/loss in the P&L.	
AC – Leased Assets	Regarding F45.3_r0040_c0010/c0020, these cells should be linked to F45.3_r0030_c0010/c0020 'operating leases other than investment property' instead of the cells F45.3_r0040_c0010/c0020 'Other', considering it is asked to include only leased assets.	F45.3_r0040_c0010/c0020 'Other' is kept, since it could encompass residual balance related to operating leases other than Investment property, which are not included in F45.3_r0030_c0010/c0020 'operating leases other than investment property'.	No changes made.
AC – Leased Assets	The mapping on ILDC component requires identifying the 'assets leasing component' in the FINREP items. Clarification would be greatly appreciated on the indications in	In the Asset Component, all assets from leases are included (FINREP templates F21 + F42).	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	terms of references to the phenomenon and what is meant by 'leased asset' that are not clear in the current FINREP reporting framework. Given the previous request, it would be more appropriate to use the internal accounting system to identify the 'assets leasing component'.		
IC – Leased Assets	Within the Asset Component, the following elements should be considered as 'leased assets': - leases in which the institution is a lessee, falling within the scope of IFRS16; - operating leases where the institution is the lessor and therefore the asset continues to be represented under its own balance sheet items. Consequently, regarding the related items included in the IC component, the inclusion of the two following items of income statement would not seem applicable, as they typically are related to financial credits, including the financial lease in which the bank is a lessor (out of scope according to the element to be included within the Asset component explained above):	Indeed, according to the L1 text, the IC includes finance income from financial leases and income from operating leases and profits from leased assets, minus the institution's interest expenses from financial and operating leases, and depreciation and impairment and losses from only operating leases. Therefore, the RTS and the ITS should be modified on the interest expenses side by clarifying that: - depreciation, impairment and losses only refer to operating lease assets; - losses from 'lease modification' should not be included in the mapping, since they refer only to financial leases (F02.00_r425_c010 should be eliminated from the mapping).	RTS and ITS amended in order to clarify that those losses, depreciations and impairments should refer to only operating leases. Moreover F02.00_r425_c010 eliminated by the mapping in ITS, Article 2, i) since it refers only to financial leases.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	- the 'Modification gains or (-) losses, net' of financial leasing contracts where the institution is a lessor; - the 'Impairment or (-) reversal of impairment on financial assets not measured at fair value through profit or loss' relating to financial leases in which the institution is a lessor.		
Dividend Component (DC)	Regarding Article 4 'Dividend component' of the RTS on BI items: 'The dividend component shall include dividend income from equity instruments and investments', CRR Article 314(2) states that dividends from stocks not consolidated in the financial statements of the institution, including dividend income from non-consolidated subsidiaries, associates and joint ventures, are not included in the dividend component. The draft RTS Article 4 should therefore be clarified by adding the same statement of scope included Article 314(2) CRR.	Article 314(2) of the CRR clearly states that dividend income includes dividends from not consolidated subsidiaries, associates and joint ventures.	No changes made.
IC and Other Operating Income (OOI) – Profits from leased assets	Double counting: Interest income '(k) profits from leased assets, including gains from lease modifications' F45.03_r0040_c0010	The EBA acknowledges the point.	Article 5(b) of the RTS (and the related ITS mapping) amended to clarify that 'income from other income' is not ''not due to leases').

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	(only from leased assets) versus other operating income '(b) income from other income' F45.03_r0040_c0010 (in total).		
IC and AC – ASA clause	There is no reference to Articles 314(3) and (4) of CRR regarding the possible derogation from Article 314(2) as in the draft ITS on supervisory reporting for operational risk (EBA/CP/2024/07). While Article 314(3) is written in the context of ILDC, it reads as if – provided the conditions are met – an institution can apply ASA instead of BIC to calculate its own funds requirements for operational risks in the near future. Clarifications should be added (criteria, requirements) on how to apply Article 314 (3).	Insofar as an institution applies the new framework, the calculation of the ILDC shall be carried out in line with the provisions provided in the present RTS and ITS. Should an institution apply the derogation in line with the requirements in Article 314(4) of the CRR, the calculation should be carried out in line with the version of the CRR applicable on 8 July 2024. Nonetheless, clarifications on this topic are provided in the instructions associated with the ITS on Supervisory Reporting, which can be consulted here.	No changes made.
ILDC and FC – 'clean' vs 'dirty' price	Regarding the determination of the ILDC component and the Financial Component, it appears that institutions using what is known as the 'clean price' to produce the FINREP reporting might be penalised compared to institutions using the 'dirty price' approach.	The application of the clean or dirty price approaches constitutes an accounting option for the institutions. Besides, it should be consistently applied in FINREP for all financial instruments measured at fair value through profit or loss and for hedging derivatives classified in the category 'hedge accounting' (see FINREP Annex 5, Part 2, para. 31).	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	Institutions using the 'clean price' approach reclassify interest income & expenses and dividend incomes from gains and losses from instruments held for trading or instruments designated at fair value through profit or loss to interest incomes & expenses and dividend income within F02.00. This does not constitute an accounting choice or method, but a reporting reclassification. These reclassifications are made for FINREP reporting purposes only. However, in a situation where the P&L of the trading book of an institution would be negative, this reclassification would result in: i) deepened loss of the P&L of the trading book, and ii) an increase in the amounts of dividend incomes (as for example dividend revenues stemming from equity instruments measured at FV in trading book would be reclassified in dividend income). That will mean that an institution using the 'clean price' approach for FINREP would be penalised compared to an institution using the 'dirty price' approach, as, considering the same P&L profile, in case of negative P&L of the trading book, one institution using 'clean price' would see its FC (based on	As a consequence of this, the BI, as an accounting-based method, mirrors the P&L in order to calculate the relevant components, avoiding the possibility of arbitrage between both options just to reduce capital requirements.	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	absolute value) increased by the amounts related to dividend revenues or net interest and its ILDC increased by the same amount, where another one using 'dirty price' would not suffer from this effect. Respondents ask that institutions be allowed to neutralise the negative impact of the reclassification made for FINREP purposes (with the same reclassification mechanism as the one used for AA to PBA approach but allowing reclassification of dividend revenue and interest incomes/expenses from ILDC to FC).		
ILDC vs Services Component (SC)	Calculation of capital requirements for operational risk should be neutral in terms of business models and ensure that the calculations do not favour certain business models over others. New and innovative business models are disfavoured in the operational risk calculations, as due to the inconsistent use of minimum function for ILDC and maximum function for the SC, in combination with an accounting-based approach, there is a risk of double counting the risk for non-interest assets which generate fee income.	The CRR does not allow the BI calculation to be modified based on business models; therefore no distinction for business models can be made in these RTS or ITS. In addition to this, and as mentioned above, in the BCBS calibration of the coefficient for the interest-bearing assets (0.0225), those assets coming from accrued fees not yet earned into the P&L – due to the low materiality of these fees in comparison with the principal amount of 'Loans and advances' or Total assets – were considered within the 'Loans and advances'. It	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	Strictly using an accounting-based approach leads logically to the inclusion of all loans and advances on the balance sheet in the AC. This is not consistent with the purpose of recital (3) of the proposed RTS, which state that the Asset component should include 'all assets that generate interest income or interest expenses'. Many modern banks, such as neo banks or free current account banks, have business models that rely on fee income on short-term loans. These loans are not seen as generating interest in accounting terms, and the income from these loans are accounted for as fee income. However, the loans will be reported as loans and advances (according to FINREP terms) on the balance sheet. Depending on the size of the different components, the inconsistent application of a minimum function in the ILDC and a maximum function of the SC carries a high risk of double counting capital requirements for the same loans. This happens because the loans could be included in the Asset component in the ILDC, while the fees generated from the loans are also included in the SC.	should also be noted that in FINREP it is not possible to disaggregate accrued fees not yet earned into the P&L from 'Loans and advances'. As a consequence of the above, the BI considers fee &commission income in the SC and interest income expenses in the ILDC as it should mirror the accounting criteria.	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	The EBA is asked to instead consider the full yield of the assets and include all income related to the assets in the IDLC, whether from interest or fees. At minimum, the EBA should exclude non-interest-bearing assets from the AC.		
Question 2. What are your views with regards to the proposal for the Services component? Please explain and provide arguments for your answer.			
Outsourcing fees – definition of financial services	There are no exact definitions to the instructions. Example: the outsourcing fees paid for the supply of non-financial services should be excluded from the business indicator. In C16.02 r0380 OUTSOURCING FEES that were paid for the supply of FINANCIAL service separately in administrative expenses in FINREP 02_ c0010 r 0360/0380 should be included. What is exactly the definition of financial services? In the BCBS 'Basel III: Finalising post-crisis reforms' from December 2017, it is stated on p. 135 that non-financial services (e.g. logistical, IT, human resources) should not be included in 'fee and commission expenses' and thus not be included in the BI. Should	While the comment refers to instructions and it is therefore implied the comments are made to the ITS on Supervisory Reporting, which is outside the scope of this final report, point is taken on the need to further clarify what is meant by 'financial services'. Although the RTS do not provide a definition of financial services, for the purposes of these RTS/ITS, financial services can be represented by the list of activities indicated in Article 7 of the RTS, which are based on the breakdown of activities as in FINREP Table 22.1. Ancillary activities to the financial services,	RTS and ITS amended so to: - point out to the items 'Fee and Commission Income' and 'Fee and Commission Expenses' in Table 02 (F.02.200 and F.02.210), rather than to their breakdowns in Table 22.1; - clarify that ancillary activities to the financial services, such as IT activities necessary to execute a financial service, should be included in the definition of financial services and hence assigned

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	all IT connected services, even if necessary to execute a financial service, be excluded? Examples of 'outsourcing fees for the supply of financial services' would be helpful here (i.e. if 'financial services' refers to banking services, we understand that these are generally part of net fee and commission income and not part of administrative expenses (row F02.00_r360_c100)). The ITS on the mapping to supervisory reporting under Article 314(10) of the CRR include in the calculation of the BI items related to F.22, which include F.02 items.	such as IT activities necessary to execute a financial service, should be included in the definition of financial services and hence assigned to this item of the business indicator even though they are reported in a different FINREP item (e.g. administrative expenses).	to this item of the business indicator even though they are reported in a different FINREP item (e.g. administrative expenses)
Fees and commissions – gross vs net values	The proposed approach to calculate the SC currently will factor into it gross fund distribution fee & commission income amounts (as opposed to net fee and commission income), which is not appropriate, especially for an institution with fund distribution activities. Respondents believe banks' actual revenue and a true indicator of their own business activity/own operational risks is the net amount retained by the banks for their efforts and activities within the overall process, not the gross revenue collected.	The use within the BI of the Fees & Commission and Other Operating (income and expenses) according to their gross value instead of the net value has been set in the BCBS final standard and consistently adopted in the CRR legislative text. Amendments to the CRR provisions are out of the scope of these technical standards. Moreover, Article 314(5) of the CRR states that Fee and Commission Expenses must include expenses paid for	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	We would like to highlight the unwarranted consequences of SC calculation for asset management activities. Indeed, inducement on fees and commissions for investment and ancillary services – as defined in MiFID 2014/65/EU Articles 23 & 24 – are perceived by a ‘receiving party’ (e.g. an institution providing advice) from a ‘paying party’ (e.g. a fund/asset management company), in relation to a service provided to the end client (e.g. investment advice). The paying party ‘retrocedes’ a portion of the fees and commissions it collected from the end client, as agreed with the receiving party and as displayed to the end client. The inducement is actually ‘flowing through’ the paying party. This is very different from outsourcing services. Therefore, to avoid the double counting of such inducements, we believe that EBA should consider that: - The party receiving inducements should report them given that they are commissions and fees remunerating its advisory service to the end client. - Conversely, the party paying inducements out of the fees and commission revenues	receiving advice and services, and no indication is provided to exclude expenses from asset management.	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	received from the end client should report its fee and commission income net of the relevant inducements, and not consider such inducements paid as a gross expense.		
Fees and commissions – income from loan commitments given	By comparing the list of items as for draft RTS 'on the components of the BI under Art. 314(9) of the CRR', Art. 7 with the list of items as for draft ITS 'on the mapping of the BI components with corresponding supervisory reporting under Art. 314(10) of the CRR' some respondents noticed that the RTS list does not include the item 'fee and commission income from loan commitments given' (which is included in the ITS list, mapped with F22.01r0200_c0010 FINREP item). The EBA is asked to clarify whether this item should also be included within the RTS list.	The EBA acknowledges the point.	Article 7 of the RTS amended so to also include the item 'fee and commission income from loan commitments given'.
OOI – recovery of administrative expenses	Looking at the way the OOI is treated under the SC, respondents clarified they understand that the recovery of administrative expenses, including recovery of payments on behalf of customers (e.g. taxes debited to customers, stamp duty, substitute tax and other recoveries), should not contribute to any of the items requested for the SC, although Article 314(5)(d) provides for such	The EBA acknowledges the point.	Article 5 of the RTS amended to clarify that recovery of administrative expenses should not feed OOI.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	exclusion. It would be helpful if EBA could clarify this explicitly in the text.		
Other operating expenses (OOE): granularity of operational risk losses	Some respondents state that operating expenses due to operational risk events, as broken down in Article 6 (1)(d), will be difficult to report because their breakdown is based on cost accounting and cannot be read directly in FINREP. By way of illustration, the following examples are mentioned: • overtime paid to employees following an operational risk event; • the use of temporary workers who could be allocated within overhead costs. These respondents state that getting this information directly via the General Ledger is connected with high costs due to new releases. It requires duplicating any accounting entries between the ones linked to operational risk and those that are not. They also state that no mapping to FINREP is proposed in the draft RTS, not clear where data on operational risk losses should be taken from. Moreover, the question arises	Article 314(5) of the CRR requests to include in Other Operating Expenses expenses and losses due to operational risk events. The breakdown as in Article 6(1)(d) on the operational risk losses (and the related 16.03 Table) is introduced in line with the CRR text and it is crucial for supervisory purposes, since it permits knowing the number of financial impacts due to operational risk events accounted for in an institution's P&L. Without this breakdown, there would be no possibility of getting this information and to assess if this relevant item of the BI is properly fed. Many institutions have in their data warehouse several flags for single transactions, which permit them to identify which transaction is due to an operational risk event. Institutions which have implemented an operational risk loss data collection (either for supervisory reporting purposes or for risk management purposes) can use the loss data-	No change in the breakdown of Article 6(1)(d).

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	as to which methodology or distribution keys to use to allocate the operating expenses. They also wonder whether this breakdown of all operational risk events financial impacts (and the related Reporting Table 16.03) should be in line with already reported templates on loss data, C17.01 and C17.02. Should it be the same source? What about thresholds? Currently, most respondents are collecting data with operational risk loss, also lower than EUR 20 K. Some of them recommend providing an option to substitute the relevant FinRep lines with the total loss amount as documented in the OR Events recording database. Other institutions state that this breakdown is only necessary if an institution is obliged to collect data in accordance with Article 316 f. of the CRR III, i.e. to institutions with a business indicator (of EUR 750 million or higher). In case that such a detailed breakdown is requested, most institutions observe that it would be difficult to provide it for the last 3 years (2022, 2023, 2024), therefore, they	base to support the breakdown of operational risk impacts as requested in Article 6(1)(d) and the completion of the related Reporting Table 16.03. From a financial reporting perspective, some 'thereof' values on operational risk losses are already requested in dedicated FINREP tables: - Other Adm. Expenses – Litigation Expenses not covered by provisions (FINREP 16.8, r080, c010); - Provisions due to Pending Legal Issues and Tax Litigation (FINREP 43, c040); - Provisions due to Other Provisions (FINREP 43, c060). The EBA is aware that: - this is a new information requirement for some institutions; hence it could be necessary for them to spend time and resources to implement routines for extracting the needed information from the accounting systems;	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	suggest implementing it on year by year basis, and/or required on a 'best effort' basis, at least until the calculation at 31.12.2027.	- it could be difficult to retrieve this information for the past few years, especially where these routines are not implemented; - according to the CRR text, institutions with a BI < EUR 750 M will not be requested to calculate the annual operational risk loss. However, some of them are still requested or invited to report operational risk losses (C17 templates) for supervisory purposes (see ITS on Supervisory Reporting); - while the calculation of the OOE would ideally require including operational risk events from any financial impact, loss databases for reporting/internal purposes (including those that will have to be established) usually envisage an institution data collection threshold (typically smaller than those envisaged by the CRR, i.e. EUR 20 000 and EUR 100 000). Retrieving operational risk losses below such internal thresholds could represent a further hurdle. While the breakdown of the financial impacts due to operational risk events as in	

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		Article 6(1)(d) of these RTS and ITS should be kept, as this is a minimum info for supervisors to assess whether the Article 314(5) of the CRR is properly fulfilled, the institutions observations on the completion of Tables 16.02 and 16.03 will be considered when finalising the related ITS on Supervisory Reporting.	
OOE – hyperinflation	The row 'expenses from other expenses', is linked to 'other operating expenses' (F45.3). Conceptually hyperinflation, which in some cases means a significant contribution, is recorded under this heading according to the applicable regulations. On the other hand, the standard giving reference to these lines does not give any further clarification applying to institutions that apply hyperinflation accounting. Therefore, the questions arise about whether or not to consider the part of this item attributable to hyperinflation accounting adjustments in the calculation of BIC.	OOE includes other items not related to operational risk, such as Article 6 (1), (a) and (c). This does not mean that these items need to be excluded from the calculation.	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
OOE – provisions due to operational risk	We kindly ask you to clarify the item 'provisions or (-) reversals provisions' due to operational risk. Please clarify what type of items are expected to be included under this line.	This item is already included in FINREP. See, for example, what has to be reported in FINREP 43, in accordance with IAS 37.14: - Provisions due to Pending Legal Issues and Tax Litigation (FINREP 43, c040); - Provisions due to Other Provisions (FINREP 43, c060).	No changes made.
OOE – write down/write off due to operational risk	Article 317(5) of the CRR states that 'Operational risk events that relate to credit risk but are not accounted for in the risk-weighted exposure amount for credit risk shall be included in the loss data set'. Please clarify if the losses due to these events should also be included in the calculation of the BI, in particular of the OOE.	Article 317(5) of the CRR clearly states that boundary losses with credit risk that are not included into the credit RWA should be considered under the operational risk perimeter. This criterion, although addressed to the calculation of the Annual Operational Risk Loss, should also be applied to the calculation of the BIC, so to have an operational risk RWA 1) fully consistent with the Annual Operational risk calculation, and 2) addressing the fact that these losses, typically accounted as impairment, are not charged of any regulatory capital on the credit risk side.	RTS Article 6(1)(d) amended to also include the sub-item 'Impairment or (-) reversal of impairment' and ITS Article 1 amended to map this sub-item in the proper FINREP items.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		These boundary losses typically refer to unpaid credit assets due to operational risk events (credit frauds, unenforceable credit contracts, collateral failures, etc.) that have been impaired and are not accounted for in the credit RWA.	
OOE – mapping of operational risk losses and leases	It is not entirely clear the proposed mapping, which requires identifying in the FINREP item the only component connected to the operational risk. We are referring to the mapping of 'Other operating expenses' for the following items FINREP: F02.00_r0370 (due to operational risk and not due to leases); F02.00_r0380 (due to operational risk); F02.00_r0390 (due to operational risk).	Article 314(5) states that under OOE, an institution needs to include, among others, 'the institution's expenses and losses… from operational risk events'. Therefore, any financial impact due to operational risk events should be included in the OOE, irrespective of whether it is related to lease assets, or it is accounted for in different items of the BI (e.g. interest expenses) or in items which do not belong to the BI (e.g. administrative expenses).	RTS amended in Article 6(1), by: - deleting 'not due to leases (except for the provisions or (-) reversal of provisions)'; - adding 'interest expenses' as the first line of the list of items. ITS amended accordingly.
OOE – recovery from other than insurance	Article 6, paragraph 2, of the draft RTS stipulates that 'For the purposes of point (d), the losses, expenses, provisions, and other financial impacts due to operational risk events shall not be net of any related pay-	Payments of loss amounts, such as those from a correspondent bank after a mistransfer (e.g. in force of a gentlemen's agreement between the parties), or from an institution's employee after an	Article 6(2) of the RTS amended to clarify that recoveries other than insurance should be used to net operational risk losses within the OOE.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	ments received from insurance or reinsurance policies purchased'. We would welcome the confirmation that this is possible to net payments different from the one received from insurance to reinsurance policies purchased.	internal fraud can be received by the institution, although they are not part of an insurance/reinsurance coverage plan. Such payments can be used to net operational risk losses before these feed the BI.	
OOE – Operational risk losses – delay in recognition of losses	Sometimes an incident is registered a month or more later than its occurrence, sometimes after reporting. What should an institution do in such a case, when the incident is recognised, for example in 2023, while accounting date of loss is in 2022. In which year should the loss be reported? Is a resubmission expected?	Regarding the delays in recording an already occurred/discovered loss, the accounting principle should be the criterion for calculating the BI; therefore the loss should be included within the BI when accounted for in the P&L and no resubmission is needed. A similar criterion is already included in the C17.01, for losses that refer to previous reporting periods but have been recognised only afterwards; such losses need to be reported conventionally in the first applicable reporting period after the recognition and no resubmission of previous C17 templates is needed.	No changes made.
OOE – Operational risk losses – administrative expenses	We would like to highlight that there seems to be a discrepancy between Article 314.7 of CRR, which lists the elements that should be excluded from the calculation of the BI,	Article 314(7) of the CRR requests not to use some items within the BI, e.g. administrative expenses. However, Article 314(5) of the CRR specifically states	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	and some of the items being requested in Template 16.03. So, while Article 314.7 states that 'institutions shall not use any of the following elements in the calculation of their BI': (a) 'Administrative expenses, including staff expenses, outsourcing fees paid for the supply of non-financial services, and other administrative expenses'; (f) 'depreciation of tangible assets and amortisation of intangible assets, except the depreciation related to operating lease assets, which shall be included in financial and operating lease expenses'; … the Template 16.03 is not consistent with this Article and requests the following fields: - 0020 'Administrative expenses to operational risk events' - 0030 'Depreciation due to operational risk events'	that expenses and losses due to operational risk events need to be included within the OOE. The RTS clarify that such expenses and losses should be included within the BI, regardless of where they are accounted for (e.g. also in items, such as administrative expenses, which in accordance with Article 314(7) of the CRR should not be used within the BI).	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
OOE: Operational risk provisions	A respondent focuses on Article 6(1)(d)(v), i.e. on the breakdown of financial impacts due to operational risk events when related to ‘provisions or (-) reversals of provisions’ The respondent states that, in case an institution expects certain operational risk events to happen, which it is unable to prevent, it can book a provision amount (further in text: ‘general provisions’) for the estimated cost of such an event before the event happens. When the event happens, the ‘general provision’ is released, and a ‘specific provision’ is booked for the exact cost of the operational risk event. In the view of this institution, following the definition of operational risk where ‘operational risk event’ means any event linked to an operational risk which generates a loss or multiple losses (Article 311a of amending Regulation (EU) No 575/2013), the above-mentioned ‘general provisions’ should not be considered as ‘operational risk event’ since event has not occurred yet. These ‘general provisions’ are not pending losses in accordance with the given definition (Article 318 (2)(d) of amending Regulation (EU)	As long as provisions for operational risk events are estimated in accordance with the relevant accounting framework, these provisions should be included in the BI and explicitly considered in the breakdown of operational risk impacts (Article 6(1)(d)(v)) and reported in the related position of Table 16.03. This is irrespective of whether the provisions are generic or specific, since what is relevant is that: - these provisions refer only to losses due to operational risk events; - they have been booked on the institution P&L. If, following an operational risk event, an institution books a (initial) generic provision in the P&L since it is unable to clearly identify the relevant recipients/stakeholders for that event, that provision needs to be timely included into the BI (and reported in Table C 16.03 040). When specific provisions related to the generic provision will be	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	No 575/2013), since they are already booked on P&L. Following this argumentation, this institution would not consider these 'general provisions' to be considered in the breakdown of Article 6(1)(d)(v) and in the related Table 16.03 of the ITS on Supervisory Reporting (position 0040). It would report, instead, the specific (individual) provisions for events that already happened. Reporting a specific provision for operational risk events will over time consume previously created 'general provisions', which are then released (transferred from general to specific provisions).	recognised at a later stage, those provisions will replace the generic provision.	
OOI & OOE – list of items	Articles 5 and 6 of the draft RTS should be clarified to cover only items that are not covered by other business indicator components but are of similar nature.	This concept is already included in Article 314(5) of the CRR.	No changes made.
IPS – implementation	The CRR states that income or fees paid within the same IPS can be netted under certain conditions, subject to prior permission from the competent authority. Could you provide more details on obtaining this	Article 314(5) of the CRR requests the institution to get explicit permission from the competent authority to calculate the SC on a net basis. A condition envisaged in that Article is that the IPS has at its disposal suitable and uniformly stipulated	No changes made.

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	permission, specifically if it needs to be requested to exclude these figures from the SC, and whether permission mentioned in Article 113(7) suffices? Also, we request further clarification of the implementation rule regarding the net accounting of provision income and expenses for entities in the same protection scheme and a renewed consultation regarding this matter.	systems for the monitoring and classification of operational risks. Implementation criteria for this condition are out of the scope of these RTS.	
IPS – new members	If a new member joins the IPS, does the data then need to be reported for the year it joined only and from then on or is the date retroactively to be adjusted?	New members that join the IPS but were in operation (as not IPS) in previous years should compute the relevant BI items according to the three-year average. In case those members have been in operation for less than three years when joining the IPS, Article 314(8) of the CRR applies.	No changes made.
IPS – mutualisation	Generally, the purpose of an IPS is to protect its members from severe losses that – in the worst case – could lead to the bankruptcy of the concerned institution. Hence, we believe it should be clarified that only ‘losses exceeding the risk bearing capabilities of a single member of the institutional protection scheme are subject to mutualisation	The clarification on what losses are subject to mutualisation across IPS members is out of the scope of these RTS.	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	across institutional protection scheme members'.		
Insurance products/services	Income and expenses from insurance or reinsurance business are to be excluded from the calculation of the Business Indicator under CRR. However, Article 16 of the RTS specifies that where these are 'resulting from the distribution of insurance or reinsurance products or services', they shall not be excluded. Given that EU credit institutions are not able to act as insurance providers [Article 4(1)(1) of the CRR excludes insurance undertakings from the definition of credit institution], the clarification included in recital 12 and Article 16 paragraph 1 point (a) of the RTS would invalidate CRR exclusion from the BI of income and expenses from insurance or reinsurance business, as no amounts comply with such characteristics (i.e.: income or expenses from the insurance business in a credit institution not resulting from the distribution of insurance products). Therefore, eliminating this clarification introduced by the RTS would invalidate Article 314(7)(a) clause in the CRR.	Article 16 of the RTS provides clarity in relation to the exclusion of insurance income and expenses from the BI. Article 314(10) of CRR outlines that income and expenses from insurance and reinsurance business should be excluded. That is to say that the income and expenses from providing insurance/reinsurance contracts, by taking the insurance risk where this were possible for an institution, should be anyway excluded. However, the distribution of insurance or reinsurance products (brokering) is a different standalone financial service and for the purposes of operational risk capital, it should be covered in BI. This is not double counting, as the capital charge associated with underwriting the insurance/reinsurance contract is included in Solvency II, while the capital charge associated with any distribution of the insurance/reinsurance contracts is calculated in the BI.	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	Additionally, we would like to note that the Solvency II Directive already includes an operational risk capital charge for insurance and reinsurance products as well as services. That being said, not excluding these categories from the Business Indicator (BI) would lead to a capital double counting situation.		
Question 3. What are your views with regards to the proposal for the FC? To which extent are you carrying out operations or making accounting choices as referred to under paragraph 2, point a) of Article 9 of this draft RTS? Are you carrying out operations or making accounting choices, other than those specified under paragraph 2, point a) of Article 9 of this draft RTS, that could justify the use of the PBA? Please explain and provide arguments for your answer.			
Hierarchy of approaches	The EBA has retained an accounting approach as the approach, by default, that institutions shall apply to calculate the Financial Component and considered the prudential boundary approach as a derogation. The EBA RTS, as drafted, might go beyond the CRR requirements by proposing to make the Financial Component defined in accordance with accounting standards the default approach and requires a derogation based	The CRR introduces the phrase 'as appropriate' in two different Paragraphs of Article 314: - Paragraph 6) when defining the 'trading book component' (TC), which has to be 'determined as appropriate either in accordance with accounting standards or in accordance with Part Three, Title I, Chapter 3';	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	on several conditions for the use of the prudential boundary approach even though both the definition of the Financial Component and the related EBA mandate above require a prudential definition as appropriate. Accordingly, where any condition to use the prudential boundary approach is no longer met, a bank would have to revert to the accounting approach and shall not use the prudential boundary approach in the following three years.	- Paragraph 9), when giving the mandate to the EBA to specify 'the components of the Business Indicator, and their use, by developing lists of typical sub-items, taking into account international regulatory standards and, where appropriate, the prudential boundary defined in Part Three, Title I, Chapter 3'. While Article 314(6) of the CRR sets out the two possible criteria to build the TC, based respectively on the accounting or prudential rules, it is left to the EBA the objective of clarifying when it is appropriate to use the prudential boundary criteria defined in Part Three, Title I, Chapter 3. Based on the industry's own feedback, the prudential boundary is appropriate in specific situations where certain types of operations and/or accounting choice cause an unwarranted increase of the Financial Component when using the accounting approach. This is presented in Article 9(2)(a) of the draft RTS. Furthermore, in line with the CRR text, it is appropriate to use the prudential	

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		boundary approach where an institution has the means to comply with the requirements in Part Three, Title I, Chapter 3 of the CRR. This is clarified in Article 9(2)(b) of the draft RTS.	
Unwarranted increase of the FC.	In the approach proposed in the RTS, the application of the PBA is conditional on several criteria, including the presence of certain operations or accounting choices that result in an 'unwarranted increase' of the FC when using the AA. This would limit the usage of PBA, while CRR does not favour one approach over another nor intends to limit the usage of PBA. Furthermore, an unwarranted increase in the TC's P&L over a certain period can be volatile by definition, as it can be impacted by several market factors. An institution can therefore experience an unwarranted increase in a given reporting period and not experience any in a following reporting period while having similar operations and accounting choices. The application of the PBA should, therefore, not be based on an unwarranted P&L increase in the TC nor be subject to any limitation. In any case, the potentiality of such increase demonstrated *ex ante* shall be sufficient and would avoid volatility.	The final RTS further clarify the concept of 'unwarranted increase', in order to ensure its proper interpretation and implementation. In the case of economic hedging, it should not be extended to: a) the P&L of hedging instruments in the trading book, which are not strictly and clearly related to the P&L of hedged instruments in the non-trading book valued at fair value through profit and loss in the accounting statement of profit and loss or b) to situations where the institution does not fully and clearly adhere to the rules and conditions envisaged by the prudential boundary defined in Part Three, Title I, Chapter 3. In all these cases, the adjustments to the FC should be limited to the amount of P&L related to risks effectively covered by the hedge and matching the accounting P&L of the hedged items.	Article 9(2) amended with reference to the concept of 'unwarranted increase' in case of economic hedging and with regard to the related organisational measure for the proper calculation of the FC. Recital 7 added and Recital 8 amended No changes made with reference to the time period.

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	Given the very dynamic nature of trading transactions, the fact that there is no unwarranted increase in the Financial Component in a given year should not preclude an institution from using the prudential boundary approach for the following three years where there may indeed be unwarranted increases due to the use of the accounting approach. This requirement appears to be above and beyond the requirements of the text. Therefore, we suggest that the EBA adheres to the optionality laid down in the Level 1 text and that, according to the fact that the approach used is consistent from one financial year to the next, the EBA clarifies the circumstances under which a passage from one approach to another is permitted.	Moreover, the FC, hence the TC and the BC, is the annual average of the absolute values over the last three financial years of the net profit or loss, so only in case that the institution has not observed any unwarranted increase of the FC in three consecutive years (i.e. from t1 to t3), a reversal to the AA (i.e. in t4) is mandatory. This period of time is sufficiently long to justify that the certain types of operations and/or accounting choices that had originated an unwarranted increase of the FC are currently no more relevant for the institution, for example, because they have been dismissed.	
Permanent use of the PBA	An impact in terms of RWA between the accounting approach and the prudential boundary approach could only be observed in situations where the TC and the BC are in opposite sign, as the global P&L will be the same in both approaches. That could, depending on the activities of the institution,	When the unwarranted increase in the FC no longer exists, the institution cannot remain permanently on the PBA and has to revert to the AA, since, according to the CRR text, the PBA can be used only 'where appropriate' (see # 1) and not freely, i.e. in situations that do not justify its use.	No changes made.

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	happen only on years where large market moves are observed and not every year. An institution should, therefore, be able to choose the PBA on a permanent basis if it considers such an approach as appropriate. It should be noted that the CRR already imposes very strict requirements for the management of the trading book, including for the inclusion of positions (Articles 102, 103 and 104), and equally strict rules to reclassify a trading book position (Article 104a), which contributes to the robustness of the PBA approach.		
Reversal to AA	By construction, regulatory arbitrage will only happen in crisis situations where (i) the accounting approach is chosen (ii) only one of the prudential banking P&L or prudential trading P&L is negative and (iii) the P&L loss of the negative component is partially or totally offset by the positive component (the other one). The introduction of the Article 14 'reversal to the accounting approach' is inappropriate. Indeed, regulatory arbitrage will be the case where an institution put himself in the incapacity to respect the Article 9(2) in time of crisis and revert to the accounting approach.	To avoid regulatory arbitrage in a crisis situation, consistency in the use of a chosen approach is sought. The EBA is mandated to specify the components of the Business Indicator and their use. Clarifying how consistency is defined in the FC context is in line with the mandate. The reversal from the PBA is mandatory in specific circumstances, i.e. when the conditions that justified the use of the PBA are no longer fulfilled. Considering	No changes made.

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	To avoid continuous changes from one approach to another, it appears reasonable that when an institution has made the decision to apply the PBA, it would only be permitted to revert to the AA (or the other way round) if such change is triggered by material evolutions of its activity, environment or risk management (for example a change of business model) and after approval from the competent authority only. This would provide the consistency required for having a sound framework for the PBA and would ensure that no regulatory arbitrage is possible, which, as previously mentioned, is already prevented by trading book framework of the CRR.	the time needed to not observe an unwarranted increase in the FC calculation to revert to the AA (three years, see the previous comment) and the time constraints to remain in the AA once reverted (further three years), continuous changes from an approach to another are prevented by definition in the RTS rules.	
Scope of entities applying a chosen approach	According to the draft RTS on the components of the Business Indicator, the prudential boundary approach to be permitted shall apply to all entities of the same consolidation group. However, for entities with little or no market activities or when accounting portfolios are in line with prudential portfolios, it would be operationally difficult to apply the prudential boundary approach due to the documentation to be provided and due to	The CRR rules on the boundary between trading and non-trading books are mandatory for all institutions, independently from the approach adopted for calculating the OFR, so data at consolidated level for EU institutions should respect these rules. The condition as stated in previous Article 9(2)(c) aimed at requesting an institution (at either consolidated or solo	Previous condition 9(2)(c) removed and replaced by the new point 12(3) to make it clear that the PBA should be applied at the institution level, either at the whole consolidation level or at solo level, and no partial use is possible.

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	the policies and procedures constraints compared to the benefits expected, while using FINREP would be easier. Therefore, we believe that institutions should be allowed to choose the appropriate approach in those specific cases, provided that the approach used is consistent from one financial year to the next and that the approach would change only under specific or rare circumstances. The proportionality principle should be duly considered, allowing consistent application to be ensured, avoiding cherry-picking at group level without undue implementation costs. In fact, some entities in the prudential Group may have differences between their accounting and prudential perimeters but with limited unwarranted increase of the Financial Component. For example, in accordance with Article 325(4) of the CRR, an institution may use a combination of the simplified approach with other approaches at consolidated level to calculate the own funds requirements for market risk. For those entities the cost of implementation largely overseed the benefit. The threshold	level) to adopt a unique, uniform, approach (PBA or AA). On a consolidated basis, this means to appropriately treat intragroup operations and hedges to avoid unwarranted increases/inconsistencies in the calculation of the TC and BC. For example, where an entity in the group issues bonds (included in the BB), which are economically hedged by another entity of the group through derivatives (included into the TB), at consolidated level a PBA can be adopted so that those derivatives are treated as also part of the BB and the opposite P&L flows (of the bond and their hedges) are offset by the FC. The use of the PBA would make sense at consolidated level, since only on the consolidated accounts those intragroup operations should be considered and, where feasible, their P&L flows neutralised within the FC. A partial use approach of the PBA and the AA at consolidated level is neither desirable nor opportune. Indeed, differently from market risk OFR in CRR 3 which is a point-in-time stock-based measure, the BI is calculated on the P&Ls	

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	proposed corresponds to simplified standardised approach to calculate the own funds requirements for market risk.	through 3 year-long periods of time directly on consolidated data. Selective choices of the PBA for some entities (or activities) and of the AA for others would open the calculation to cherry-picking and, from an institution perspective, would require complex new data aggregation at consolidated level based on non-homogeneous P&Ls at the individual level. Similar considerations hold true for a threshold exemption, mirroring financial statement stock asset-based measure used for market risk OFR in Article 325 of the CRR, or based on the trading activity/portfolio. However, Article 9(2)(c) did not imply that, where an institution uses the PBA at consolidated level, all the entities of the group need to also use the PBA at the individual level. While it is worth repeating that the CRR rules on the boundary between trading and non-trading books are mandatory for all institutions, at consolidated and individual levels, the two levels (group and solo) are not necessarily connected. Within a group using the PBA at consolidated level, the entities should use the AA at solo level as a	

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		default approach; there might be cases where some entities could see it appropriate to use the PBA at solo level, for example, if they are significantly involved in trading activities and fulfil, at solo level, all the conditions set out by Article 9. In this case, a specific *ex ante* notification should be issued for the use of the PBA at those entities' level, which would accompany the *ex ante* notification for the use of the PBA at consolidated level.	
Notification process for PBA – 90 days constraint	The 90 days timing constraint related to the intention to use the prudential boundary approach that institutions shall notify to the competent authorities before its implementation is brought into question. How will supervisors be able to give prior authorisation to institutions so that institutions can apply the prudential boundary approach to calculate the Financial Component, when the finalisation of the draft technical standard and submission to the Commission are only scheduled for the end of 2024? Indeed, institutions have 90 days before the implementation date to notify the supervisors of their intention and submit a documented file (P&L monitoring with the prudential	The 90 days' time constraint refers to the ongoing as a rule and is not provided only for the first-time adoption of the BI. In any case, the entry into force of the draft RTS shall take place 20 days after its publication in the Official Journal of the European Union. Institutions are expected to align with provisions therein at the closest reporting date following the publication of the legal text and in line with the provisions included in the published legal text. Clarification included in new para. (Article 13(3)) as to the need to submit complete information and documentation	Article 13(3) added on the completeness of the information and documentation.

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	boundary, impact of the choice of method, independent audit, etc.). However, based on an implementation date of the end of 2024, institutions should be submitting their documented files as early as September, even though the technical standard has not yet been published.	for the start of the 90-day notification period.	
Notification process for PBA – documentation	The notification process seems very cumbersome, especially as all the requirements (points (a) to (h) of Article 13(2) of the RTS) should be reviewed annually. All these requirements should only be required for the initial notification of the intention to use the PBA and the annual review should be limited to the independent review on the fulfilment of the conditions to use the PBA (point (h) of Article 13(2) of the RTS).	The information and documentation indicated in paragraph 2 of Article 13 refer to the initial adoption of the PBA. Article 13(3) requests to update that documentation at least on a yearly basis. Such an update should obviously refer to elements/aspects that, in the following years, are significantly changed respect to the initial delivery. The EBA sees merit in clarifying further this aspect in the RTS.	Renumbered Article 13(4) amended to clarify what elements of Article 13(2) should be regularly reviewed (eventually updated) and what elements are referring only to the initial adoption of the PBA.
PBA variations	We support the option to use the PBA to avoid undue increases in the BI, in accordance with CRR. In the context of the FC and the application of the PBA, we welcome the opportunity to make use of common accounting standards such as IFRS. Overall, we see a PBA based on an accounting standard (e.g. IFRS trading income) as	The two methods proposed by the CRR and further developed by the draft RTS have distinctive premises: accounting for the AA and prudential for the PBA.	No changes made.

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	the most practical solution as it seems inappropriate to deviate from accounting standards by performing the suggested adjustments to the AA. Not only is accounting data readily available for institutes, but also is it attested, consistent and transparent and thus builds a functionally valid basis for calculating the FC.		
Question 4. What are your views with regards to the proposal for the specification of the items to be excluded from the BI? Please explain and provide arguments for your answer.			
CRR3 exclusions vs draft RTS exclusions	Chapter 4 (Article 16 of the draft RTS) is titled 'Elements to be excluded from the Business Indicator'. However, the chapter lists what is not excluded, which can be quite confusing to apply. It would be more helpful to have an actual list of exclusions – else, it is difficult to be sure of completeness of exclusions.	Article 314(10) of the CRR provides an exhaustive list of items that should be excluded from the calculation of the BI. Article 16 of the draft RTS further specify these exclusions by providing clarity on items that may be associated with those items listed in Article 314(10) of the CRR, but that should be included in the calculation of the BI for specific reasons.	No changes made.
Extraordinary/Irregular items – Profits and losses from the sale of non-trading	Realised profits and losses from the sale of non-trading book items and income from extraordinary or irregular items should be	'Exclusions of profits and losses from the sale of non-trading book items and income from extraordinary or irregular	The wording of Recital 1 of the RTS has been amended in order to further clarify the

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book items/extraordinary items	excluded from the Business Indicator. These items do not reflect the institutions' 'business as usual' and are not reflective of their operational risk profile and should be excluded from the BI calculation. For instance, the sale of an ALCO portfolio and it may have been done to cover/balance the structural balance sheet risk, so it would not make sense to penalise it through operational risk.	items' is referring to the Article 316(1)(b) of the CRR2 (Relevant Indicator) and not to the Business Indicator envisaged by the CRR. The CRR does not envisage the exclusion of extraordinary or irregular items from the BI, following the logic in the BCBS revised standard on operational risk. Article 314(5) of the CRR states that OI or OE should be calculated using the institution's income or the institution's expenses and losses from ordinary banking operations not included in other items of the Business Indicator, but of similar nature. 'Ordinary banking operations' refer to 'business as usual' banking operations; hence the income and the expenses generated in the course of such operations, irrespective if labelled as ordinary or extraordinary, need to be included in the most appropriate items of the institution's P&L statement, in line with the criteria established by IAS*, IFRS or, in general, nGAAP standards. These items are then used to build the BI having regard to both the qualifications envisaged by the CRR (see, for example,	message and avoid misunderstandings, as well as to ensure full consistency with the Legal text.

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		the exclusions indicated in Article 314(10) of the CRR) and the additional criteria set out in these RTS. Recital 1 of the RTS states that 'Only the items representing recurrent banking business operations in an institution's profit and loss statement, or balance sheet statement, should be included within this indicator'. 'Recurrent banking business operations' as cited in the Recital 1 of the RTS has the same meaning as 'ordinary banking operations' in the CRR text, therefore the above-mentioned considerations hold true also in case of the RTS. Income and expenses stemming from extraordinary banking operations (e.g. due to M&A and disposal) are typically accounted for in P&L items, which are not included within the BI items (e.g. expenses made to get expert or strategic advice due to M&A are accounted in Administrative expenses). For completeness' sake, it is worth to observe that the definition of OE does not make any reference to ordinary (or	

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		extraordinary) operations when the expenses and losses come from operational risk events. Financial impacts from these events, of any nature and type, need to be included within the BI, even if some of these events have been considered exceptional/extraordinary in nature and have been excluded from the calculation of the Annual operational risk loss, in line with what envisaged by Article 320 of the CRR. This rule is set out in Article 6 (2) of these RTS. * IAS 1 states that 'An entity shall not present any items of income and expense as extraordinary items, either on the face of the income statement or in the notes' based on the underlying rationale that 'items treated as extraordinary result from the normal business risks faced by an entity' as well as that 'The nature or function of a transaction or other event, rather than its frequency, should determine its presentation within the income statement' and that 'Eliminating the category of extraordinary items eliminates the need for arbitrary segregation of the effects of related external events – some recurring	

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		and others not – on the P&L of an entity for a period.'	
Support for list of exclusions	We agree with the specification of items to be excluded from the BI.	The EBA acknowledges the support for the elements presented in the draft RTS on this topic.	No changes made.
Question 5. What are your views with regards to the proposed mapping of the BI items to the FINREP cells? Please explain and provide arguments for your answer.			
Mapping to FINREP: accounting and supervisory view	To avoid misunderstandings or false interpretations, EBA is kindly asked to provide more clarifications to properly identify which kind of item or data has to be considered from an accounting and supervisory point of view. In general, we agree on this approach of using FINREP items for the construction/definition of the BI. However, in some cases, even if the FINREP item reference is present, we ask that it be used only partially for reporting certain components that are not shown in the official EBA reporting framework (for example, the leasing assets component or, more generally, the operational risk component, which is not	The BI is an accounting-based proxy so it should be considered in that context. The RTS provide criteria for the mapping of the BI items to the FINREP items, either as exact mapping or approximate mapping, to fulfil the qualifications envisaged by the CRR for the definition of the BI. In the case of approximate mapping, Institutions need to consider the most appropriate data source (e.g. accounting, managerial) to adjust the FINREP item and get the COREP item.	No changes made.

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	defined from an accounting or supervisory point of view).		
Mapping to FINREP: indicative, not compulsory	The mapping with FINREP elements proposed by the EBA should only be indicative and not compulsory. This mapping should be viewed as a way to lead institutions in their own mapping to the BI. This will allow institutions to better ensure consistency, on the one hand, with the prudential trading and non-trading books boundary, and on the other hand with other elements that are not mapped as indicated by the EBA (e.g. example given by the EBA on lease expenses).	The EBA is mandated by Article 314(10) of the CRR to 'specify the items of the Business Indicator by mapping those items with the corresponding reporting cells set out in Commission Implementing Regulation (EU) 2021/451 (*14), where appropriate'.. The role of this mapping is to improve reduce variability and increase comparability of the capital requirements between institutions.	No changes made.
Mapping to FINREP: avoid adjustments to the FINREP cells	The draft ITS provides the mapping of the BI components using 90 FINREP template cells. These proposed FINREP adjustments in the draft ITS make the calculation cumbersome and time-consuming and increases the risk or inaccuracies, whether by understating or overstating these figures. Therefore, we suggest avoiding the use of adjustments to the FINREP cells in the calculation of the BI whenever possible.	As indicated in the ITS on BI items, the mapping can be exact or approximate. To be as much homogeneous as possible between institutions in the building of the BI, a mapping with FINREP items has been indicated in these ITS. When exact, the FINREP item should be used for COREP purposes, when it is approximate (because in such cases the FINREP is not specific enough to permit a 1:1 mapping), the FINREP item indi-	No changes made.

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		cated in the ITS should be used as reference and adjusted accordingly based on the institution's most appropriate data source (e.g. accounting, managerial). While this mapping can be time-consuming at the first reporting date, the information to adjust the FINREP items needed to fulfil the CRR requirements on operational risk should be available to all institutions.	
Mapping to FINREP: enhancing clarity	Please enhance the clarity of the linkage between Business Indicator calculation elements and corresponding entries in the FINREP templates. The goal should be to avoid uncertainties, thus fostering a higher degree of consistency and harmonisation across financial institutions.	The mapping aims to provide consistency between institutions. Where a 1:1 mapping is not available, the FINREP item indicated in the ITS should be used as reference and adjusted accordingly based on the institution's most appropriate data source (e.g. accounting, managerial). In addition to the ITS on mapping, clarifications are brought in the context of the row-by-row instructions accompanying the ITS on Supervisory Reporting.	No changes made
Mapping to FINREP at solo vs consolidated level: Scope of supervisory reporting	There are different scopes of supervisory reporting based on a wide range of variables and thresholds (from full FINREP reporting	The EBA acknowledges the existence of different scope of supervisory reporting. The following FINREP templates are not always subject to be reported by non-	For those FINREP templates not included in the full FINREP scope, an alternative mapping, less granular, has

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	to Data Points reporting). Besides, the mapping proposed is based on the higher degree of granularity, which corresponds to the full FINREP scope of reporting. Thus, for those institutions not reporting on a full FINREP basis, it is not possible to carry out the mapping proposed by EBA.	full FINREP institutions: F16, F21, F42 and F45.	been provided. Thus, the ITS on Reporting will reflect this accordingly.
Mapping to FINREP at solo vs consolidated level: nGAAP	Some reporting items are named in the FINREP reporting items that are not relevant for some nGAAP users. So, the reporting item cannot be completed in the operational risk reporting form.	The mapping proposed in the ITS on Reporting considers both IFRS and nGAAP users (including when nGAAP users are compatible or not with IFRS).	No changes made.
FX rate	With regards to the exchange rate, the calculations of operational risk requirements are based on the average of the values at the end of the last three financial years. Also taking into account that operational risk losses will materialise in the currency in which the company operates, we consider that the exchange rates to be applied in the case of subsidiaries with a currency other than the euro for the purposes of calculating own funds requirements for operational risk should be the exchange rate applicable at each reporting date.	According to FAQ2 of 25.18 BCBS operational risk standard, the FX rate to use for computing the detailed figures and, finally, the BI is the one of each financial year according with the applicable accounting framework. When time passes (i.e. in subsequent financial years), institutions would not change the exchange rate that they initially used to convert the data into the reporting currency of the institution. Therefore, as stated in the ITS on Supervisory Reporting (para. 141f of the instructions for completing Template 16.01): 'For the calculation of the BI (e.g. in the case of institutions	No changes made.

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		having subsidiaries with a currency other than the reporting currency of the institution) institutions shall apply the relevant exchange rate for each of the three years, on which basis the BI is computed, in accordance with the applicable accounting framework. Thus, the exchange rate used in the respective year shall not be updated in every reporting date'. However, in the context of subsidiaries in hyperinflationary economies, the application of the exchange rate for each year in the BI calculation horizon may be subject to supervisory judgement during the first three years of BI calculation. With regards to the calculation of the BIC and the application of the relevant thresholds, the average FX rate for the period for which the BIC is computed should be used, as pointed out in the ITS on Supervisory Reporting (para. 141g of the instructions for completing the Template 16.01): 'Regarding the application of the thresholds to compute the BIC in accordance with Article 313 of Regulation (EU) No 575/2013, institutions be-	

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		longing out of the euro area which report the supervisory information in their local currency, shall use the average exchange rate for the period for which the BIC is computed (average for the last three financial years) in accordance with the accounting framework, for the conversion of the threshold into their local currency'.	
FINREP mapping of the SC	Some FINREP components cannot be separated within the FINREP items proposed for the calculation of the Service component, in particular the operational risk items: - 45.03 (not due to operational risk and not due to leases); - F02.00 (due to operational risk); - F02.00 (due to operational risk and not due to leases); - F02.00 (due to operational risk and not due to leases or to outsourcing fees paid for the supply of financial services).	For these items there is no 1:1 mapping, so the institutions have to deep dive into their internal accounting to be able to report. In addition, it is stated in the ITS on BI items that the mapping can be exact (1:1) or approximate. This is exactly the case where adjustments to the FINREP items are needed to get the COREP items.	No changes made.
FINREP mapping of the AC	Further clarifications are requested about: - 'carrying amount of tangible assets and intangible assets subject to lease'. There is no clear correlation between the mapping for the asset component that refers to FINREP	Changes in fair value in tangible assets measured using the fair value model are a typical item of Other operating income/expenses (see F45, r.010).	No changes made.

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	templates F21 and F42 (assets subject to lease) and the service component mapping that includes, in the operating income and expenses, also the changes in FV of the assets not subject to lease.		
Question 6. What are your views with regards to considering the financial statements used for the final valuation as the only reference for the acquisition of activities under the baseline approach (i.e. full historical data)? Please explain and provide arguments for your answer.			
Financial statements used for final valuation	Request to clarify that 'audited financial statements' used correspond to '<u>external</u> audited financial statements'.	The EBA confirms the audited financial statements mean <u>external</u> audited financial statements.	No changes made.
Intragroup transactions	Request to be able to adjust the financial statements to eliminate the last three years intra-group transactions between the acquiring and the acquired entities.	Eliminating intra-group transactions between the acquiring and the acquired institutions during the last 3 years is reasonable. Actually, the RTS does not prevent from doing this.	No changes made.
P&Ls consolidation	The calculation of the BI adjustment should not be an addition of the P&L items of both entities in the FINREP because there could be some restructuring.	While consolidation is not synonymous with arithmetic addition, when referring to business restructuring prior to an M&A, this is the purpose of the alternative approaches proposed: to consider the last accurate information available to institutions providing an accurate picture of the financial status.	No changes made. Please refer to Articles 1(2) and 1(3) of the corresponding RTS.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Timing of adjustment to BI	One respondent suggested adjusting the BI only after the first consolidated financial statements.	The objective of the RTS is to carry out the adjustment to the BI before the final consolidated financial statements. Even if consolidated financial statements changed in the year after the acquisition, the statements at the time of the M&A provide preliminary figures to be used in accordance with the ranked alternative approaches.	No changes made.
FINREP	Three comments related to FINREP: a) split trading book and banking book involve high effort; b) raises question about the FINREP mapping for individual level vs consolidated level. c) asks the FINREP mapping to not be compulsory.	Those comments have been moved to the FC section of the feedback, as it directly addresses this topic and is not a direct consequence of BI adjustments.	No changes made.
Question 7. What are your views with regards to the proposed three alternative calculation approaches instead of a unique alternative approach to be defined? Please explain and provide arguments for your answer.			
Alternative approaches	Most of respondents took the view that it would be excessively burdensome to apply the three alternative approaches. They recommend various options: - <u>1) Rank the options:</u> i) 'c)', and if not possible, 'a)', and then, if not possible,	The EBA acknowledges the comment. With a view to streamline and enable the calculation of the adjustment post-M&A, a simplification and hierarchy of the approaches provided in the CP were carried out:	Changes made to the legal text reflect the simplified methodology presented in the EBA analysis column.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	'b)' ; ii) 'c)' or 'a)', and if not feasible, 'b)' as a fallback solution. - 2) Unique alternative approach, either 'c)' or 'a)'. For the application of option 'a)', one respondent suggests to only take the first financial statement post-M&A instead of using the entire information that is available and accurate as mentions in Article 1(2)(a). In addition, some respondents suggest allowing method 'c)' on a general basis as long as the M&A factor is below 1.1, without any notification requirement.	Since approaches 'a)' and 'c)' are quite similar, only method c) should be kept. Given that the approach 'b)' is the most conservative, the text should indicate the use of the approach 'c)' first, and then, only if this approach is not feasible due to lack of data, the approach 'b)' could be used. This also implies deleting approach 'a)'.	
Calculation of the M&A factor	One respondent wants to clarify how to compute the M&A factor (method 'c)'), e.g. which year/period.	The RTS provides the information ('using the latest available and accurate financial information in relation to the merged or acquired entities or activities' – Article 1(2)(c)), and also an example in Table 3 of the Background and rationale section. Additionally, the M&A factor approach described in Article 1(2) of the RTS calls for the use of the Net Operating Income mapped with FINREP.	No changes made.
Notification	Some respondents asked for clarifications about the notification procedure (channel and timeline).	It is expected that the procedure is the same as other notification requests: using the usual official communication	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		channels used with the relevant competent authority/jurisdiction.	
Question 8. What are your views with regards to not providing any alternative method but instead adjustments to the effective perimeter of the disposal? Please explain and provide arguments for your answer.			
Treatment of disposed entities in case of absence of permission	One respondent wanted to clarify the effects of the absence of permission and how to consider the disposed entities.	In the absence of permission, there is no requirement to recalculate the business adjustments. Therefore, the disposing institution will calculate the BI on historical financial statements and the disposed entity will be gradually eliminated from the computation.	No changes made.
Authorisation procedure (disposal adjustment)	One respondent suggested applying the 'silence equals acceptance' principle: after a 3-month period, the permission would be granted if no answer has been provided by the relevant competent authority.	In line with the CRR, permission needs to be granted in order to exclude disposals from the BI. Therefore, a reply from the relevant CA is needed.	No changes made.
Question 9: What are your views with regards to the inclusion of a threshold? Please explain and provide arguments for your answer, as well as, if applicable, further evidence on situations where BI adjustments, as set out under Articles 1 and 2, would not be feasible or deemed excessively cumbersome, and identify potential consequences on the dynamics of the European financial markets.			
Threshold on M&A	Respondents pointed out how burdensome the process is, in the absence of any materiality threshold.	Regarding mergers and acquisitions, the complexity of the adjustments to the BI due to M&As lies in the methodology	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		used in order to carry out the adjustments. Given the simplified methodology to be used in case of adjustments due to M&As, particularly in cases of data unavailability, as presented in paragraphs 41 to 48 of the Background and Rationale section of this final report, coupled with the fact that a materiality threshold for adjustments to the BI due to M&As would only temporarily delay the impact on capital requirements for a period of 1 to 3 years, the EBA has deemed it unnecessary to introduce such a threshold.	
Threshold on disposals	Several respondents suggested introducing a threshold also for adjusting the BI post-disposals (i.e. a threshold below which there is no need to ask for permission for making adjustments), whereas one respondent suggested not implementing a threshold on disposals.	It is understood the burden in the process for adjusting the BI post-disposals is higher, as the CRR requires institutions to ask for permission from the relevant competent authority before adjusting the BI. The EBA therefore proposes the introduction of a materiality threshold below which institutions can proceed with adjusting the BI post-disposals even if they have not received a written supervisory permission.	A threshold on disposals has been added in the corresponding RTS.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Threshold on intragroup transactions in the context of M&As	Some respondents suggested implementing a special threshold on intragroup transactions (i.e. no adjustments at subsidiary level if the operations do not represent more than 5% of the NOI group), while one other respondent seemed to take the view that, on the contrary, operations between entities of the same group should be adjusted without permission.	As intragroup transactions are expected to be handled as part of the consolidation process, a threshold on this type of transaction is not necessary.	No changes made.
Question 10: What are your views with regards to the basis for the calculation of the threshold on M&As? Please explain and provide arguments for your answer.			
Threshold on M&A	All respondents took the view that the threshold would be expressed as a percentage of NOI or M&A factor (which is nearly the same), with the exception of one respondent who suggested the threshold should be expressed as a percentage of CET1. Concerning the level of the NOI/M&A factor, several approaches were suggested: four respondents suggested 2%; one respondent suggested 3%; three respondents suggested 5%; one respondent suggested 10%.	Not applicable, given that a threshold for BI adjustments post M&As will not be implemented (see EBA analysis on question 9).	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Threshold on disposals	The respondents took the view that the threshold should be expressed as a percentage of NOI or M&A factor (which is nearly the same). Concerning the level of the NOI/M&A factor, several levels are suggested: 2%; 3%; 5%; 10%.	The EBA considers the impact to be compared to the threshold should be calculated as the sum of the NOI of the divested entities or activities throughout a fiscal year over the NOI of the divesting institution over the same fiscal year. The calculation shall be made at the end of the preceding financial year using the amount of the NOI of the divested entity or activity and of the divesting institution. Finally, the threshold is set at 5%, based on data available.	Changes brought to the corresponding RTS to reflect the EBA analysis and outcome.
Question 11: What are your views with regards to the level you consider would be appropriate for the threshold? Please explain and provide arguments for your answer.			
Threshold on M&A	Three respondents suggested a threshold to be calculated on consolidated level; one respondent suggested a threshold to be calculated at an individual level; two respondents suggested a threshold calculated at every level where capital requirements apply; three respondents notified their lack of preference concerning the threshold application level. One respondent suggested that	Not applicable, given that a threshold for BI adjustments post M&As will not be implemented (see EBA analysis on question 9).	No changes made.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	a higher threshold should be considered for large banking groups with a cross-border presence and also suggested that irrelevant operations at group level should not be considered in the BI group-level calculation.		
Threshold on disposal	Two respondents suggested a disposal threshold to be calculated on a consolidated level.	The level of application is prescribed in the CRR.	No further changes made.