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Draft
Final Report on draft implementing technical standards on the reporting of intra-group transactions and risk concentration under Article 21a (2b) and (2c) of Directive 2002/87/EC

Contents

1. Executive summary

The Joint Committee of the ESAs has developed these draft implementing technical standards (ITS) on the reporting of intra-group transactions and risk concentration under Article 21a (2b) and (2c) of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (FICOD)[1].

The harmonization of the intra-group transaction and risk concentration templates aims to fully align the reporting under FICOD in order to enhance supervisory overview regarding group specific risks, in particular contagion risk. They will also increase comparability amongst financial conglomerates of different Member States improving supervisory consistency. Further, the harmonization of the templates enables enhancing the level playing field between financial conglomerates diminishing the reporting burden for cross-country financial conglomerates. In doing so, the present regulation will contribute to the consolidation of the single market.

Articles 21 a (2b) and (2c) of FICOD mandate the ESAs through the Joint Committee), to develop uniform conditions of application of the supervisory overview.

This draft ITS proposes harmonised templates for the reporting of intra-group transaction and risk concentration for financial conglomerates aiming at collecting information in order for competent authorities to perform their supervisory overview referred to in Articles 7(2) and 8(2) of FICOD.

Harmonised templates will help coordinators and other relevant competent authorities to identify relevant issues and exchange information more efficiently. Furthermore, they will ensure fair competition while reducing regulatory complexity and firms' compliance costs, especially for financial conglomerates operating on a cross-border basis, therefore fostering the European Single Market.

After a public consultation period of 3 months the Joint Committee has revised the proposal, taking into account the feedback received. Once endorsed by the European Commission, they would take the form of a delegated regulation.

The ITS will enter in force on 1st January 2022.

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[1] OJ L35, 11.2.2003, p.1-27

[2] 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 L331, 15.12.2010, p. 12-47

[3] Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC, OJ L331, 15.12.2010, p. 48-83

[4] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, OJ L331, 15.12.2010, p. 84-119

3. Background and rationale

Importance of uniform reporting requirements

The aim of the ITS is to offer a single framework of requirements for the reporting due by financial conglomerates subject to supplementary supervision in the EU, thereby helping coordinators and other relevant competent authorities to identify relevant issues and exchange information more efficiently, reducing costs and fostering a level playing field across EU financial conglomerates. It provides the foundation for the full harmonisation of reporting, with one single set of templates, one single embedded dictionary using common definitions and even one single set of instructions to fill in the templates.

One of the main responses to the latest financial crisis was the establishment of a single set of harmonised prudential rules in the EU to facilitate the functioning of the internal market and to prevent regulatory arbitrage opportunities. A single set of harmonised prudential rules also reduces regulatory complexity and firms' compliance costs, especially for firms operating on a cross-border basis.

The ITS on reporting of intra-group transactions and risk concentrations under paragraphs 2b and 2c of Article 21a FICOD will form part of this single set of harmonised prudential rules along with the Commission Delegated Regulation (EU) 2015/2303[5] of 28th July 2015 and will become directly applicable in all Member States once adopted by the European Commission and published in the Official Journal of the EU.

Current requirements as regards the reporting of information on intra-group transactions

Member States "shall require regulated entities or mixed financial holding companies to report on a regular basis and at least annually to the coordinator all significant intra-group transactions of regulated entities within a financial conglomerate" (Article 8(2) FICOD).

Intra-group transactions are defined by Article 2 (18) FICOD as: "*all transactions by which regulated entities within a financial conglomerate rely directly or indirectly on other undertakings within the same group or on any natural or legal person linked to the undertakings within that group by close links, for the fulfilment of an obligation, whether or not contractual, and whether or not for payment*".

Moreover, significant intra-group transactions are more specifically specified in Article 2 of the Commission Delegated Regulation (EU) 2015/2303.

[5] Commission Delegated Regulation (EU) 2015/2303 of 28 July 2015 supplementing Directive 2002/87/EC of the European Parliament and of the Council with regard to regulatory technical standards specifying the definitions and coordinating the supplementary supervision of risk concentration and intra-group transactions

Main features

1. Scope

Regulated entities are defined under Article 2(4) FICOD as *"A credit institution, an insurance undertaking, a reinsurance undertaking, an investment firm, an asset management company or an alternative investment fund manager".* Moreover, the notion of "group" used in Article 2(18) is defined under Article 2(12) FICOD as: "*a group of undertakings which consists of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries hold a participation, or undertakings linked to each other by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC, including any subgroup thereof".*

Respectively, the definitions of parent undertaking and subsidiary undertaking are featured in paragraphs 9 and 10 of Article 2 f FICOD and both paragraphs refer to Article 2 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 *on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings*, none of which limiting the understanding of "undertakings" to regulated entities.

It is also worth noticing that Article 8(2) FICOD does not replicate the possibility given to the coordinator under Article 6(5) when calculating supplementary capital adequacy requirements not to include a particular entity within the scope. The absence of provisions regarding supervisory ability to grant intra-group transactions waivers leads us to conclude that the legislator deemed necessary, subject to appropriate threshold, to include all entities.

Therefore, the intra-group transactions[6] that would need to be reported are those significant:
i) between regulated entities of different sectors belonging to the same financial conglomerate; ii) between regulated entities of the same sector belonging to the same financial conglomerate; iii) between a regulated entity and a non-regulated entity belonging to the same financial conglomerate; iv) between a regulated entity and any natural or legal person linked to the undertakings of the financial conglomerate by close links as set out in Article 2 (13) FICOD.

However, in accordance with Article 11(2) and Annex II of FiCOD, the coordinator, after consultation with the other relevant competent authorities, shall specify the type of transactions regulated entities shall report. In particular, the coordinator may only require the reporting of intra-group transactions between group entities from different financial sectors (inter-sector transactions) or require the reporting of information on intra-group transactions which have not already been provided by a regulated entity belonging to the financial conglomerate under sectorial regulation in order to avoid unnecessary duplication of information requests.

Regarding the treatment of the reporting of intra-group transactions between a (mixed) financial holding company and an unregulated entity of the group, Article 2(2) of Delegated Regulation (EU) 2015/2303 stipulates that intra-group transactions with financial holding companies are to be reported: *"With respect to regulated entities and mixed financial holding companies, when*

[6] Defined in Article 2(18) FICOD

identifying types of significant intra-group transactions, defining appropriate thresholds, periods for reporting and overviewing significant intra-group transactions, the coordinator and the other relevant competent authorities shall, in particular, take into account: (a) the specific structure of the financial conglomerate, the complexity of the intra-group transactions, the specific geographical location of the counterparty and whether or not the counterparty is a regulated entity;

The ESAs consider of prime importance to access that information. Indeed, mixed financial holding companies are prone to contagion effects and defaults arising from undertakings of the group and spread risks within the financial conglomerate. Significant transactions between the mixed financial holding companies and non-regulated entities are therefore an important element for the ability of the supervisor to identify at a group-wide level the possible contagion effects, circumvention of sectoral rules, or conflicts of interests within financial conglomerates.

For reporting purposes, entities falling under the definition of financial institutions (article 4 (1) (26) CRR) ancillary service undertakings (Article 4 (1) 18 CRR) or the definition of investment firms (Article 2 (3) of Directive 2002/87/EC) shall be included with the figures of the banking sector.

2. Structural features of the reporting

The ESAs have considered existing templates. It also acknowledged the requirements stemming from sectoral regulation, in particular Directive 2009/138/EC (Solvency II)'s intra-group transactions templates and took into consideration the facts that financial conglomerates:

- are already partially subject to Solvency II reporting requirement, and
- shall have, *in place adequate risk management processes and internal control mechanisms* (article 9(1) FICOD).

Therefore, building the new templates on the existing Solvency II intra-group transactions templates seemed an appropriate approach to ensure consistency with FICOD and Commission Delegated Regulation (EU) 2015/2303 and to limit the necessary adaptations.

Yet, while Solvency II requires four templates on intra-group transactions (S.36.01 - intra-group transactions involving equity-type transactions, debt and asset transfer; S.36.02 - intra-group transactions – Derivatives; S.36.03 Internal Reinsurance; S.36.04 - Internal Cost Sharing, Contingent Liabilities (other than derivatives) & Off Balance Sheet Items and Other Types of intra-group transactions, the ESAs propose to split the information of S.36.04 into two templates:

- off-balance sheet items and
- revenue, costs and expenses items (P&L).

Furthermore, an additional template is proposed to provide the total amount of the different significant intra-group transactions following the requirement of Article 2(4)(c) of Commission Delegated Regulation (EU) 2015/2303:

"The coordinator and the other relevant competent authorities shall at least require regulated entities or mixed financial holding companies to report on the following: […] (c) the total volume of

all significant intra-group transactions of a specific financial conglomerate within a given reporting period […]".

The conglomerate reporting template is therefore composed of six templates: FC.00-Summary sheet; FC.01- Equity-type transactions, debt and asset transfer; FC.02-Derivatives; FC.03-Off balance sheet; FC.04-Insurance-reinsurance; FC.05-P&L.

Treatment of the revenue, costs and expenses items (Profit & Loss)

Profit and loss transactions may be either isolated or integrated as a mere characteristic of the principal transaction (e.g. interest on loan/dividend on equity). Profit and loss transactions should be reported in the specific template. If available, the Profit and loss transaction may be reported alongside the principal transaction that generated it.

Single economic operations

Article 2(5) of Commission Delegated Regulation 2015/2303 states that: "*Transactions that are executed as part of a single economic operation shall be aggregated for the purpose of calculating the thresholds pursuant to Article 8(2) of Directive 2002/87/EC.*" The transactions that are part of a single economic operation should however be reported on a single line basis.

Groups should provide explanations for their understanding of single economic operations in an internal procedure. This internal procedure should be up to date and made available upon request by competent authorities or coordinator.

Indirect transactions

The definition of intra-group transactions under Article 2(18) FICOD encompasses *"all transactions by which regulated entities […]* ***rely directly or indirectly*** *on other undertakings within the same group […] for the fulfilment of an obligation, […];"*

The purpose of the reporting of intra-group transactions and more globally of FICOD is to prevent and monitor the contagion risks between sectors. Information about indirect exposures should therefore be reported to supervisors.

Article 2(1) of Commission Delegated Regulation (EU) 2015/2303 indicates the elements to be taken into account by the coordinator when overviewing significant intra-group transactions:

> *(f) transactions to shift risk exposures between entities within the financial conglomerate, including transactions with special purpose vehicles or ancillary entities;*
>
> *(h) transactions that consist of several connected transactions where assets or liabilities are transferred to entities outside of the financial conglomerate, but ultimately risk exposure is brought back within the financial conglomerate.*

In the case of a waterfall of transactions, e. g. if "A"-> "B" -> "C"-> "D" where both "B" and "C" are both in the conglomerate but unregulated entities, this chain of transaction shall also be reported.

Indirect transactions where the risk is ultimately borne by a policyholder need not be reported (e.g. investment in funds by an insurance company on the account of a policyholder).

Groups should provide explanations for their understanding of indirect exposures in an internal procedure. This internal procedure should be up to date and made available upon request by competent authorities or coordinator.

Arm's length

Regarding Article 4(1) of Commission Delegated Regulation (EU) 2015/2303, financial conglomerates are required to notify all significant intra-group transactions included those which are not performed at arm's length:

"Without prejudice to any other supervisory powers conferred on them, competent authorities shall, in particular, require, where appropriate, regulated entities or mixed financial holding companies to perform intra-group transactions of the financial conglomerate at arm's length or notify intra-group transactions which are not performed at arm's length;"

Transactions which are not performed at arm's length should be notified by adding a specific comment in the "comment" column.

Groups should provide explanations for their monitoring of Arm's length transaction in an internal procedure. This internal procedure should be up to date and made available upon request by competent authorities or coordinator.

Conflict of interest and contagion risks management

Article 2 (4) (d) of Commission Delegated Regulation (EU) 2015/2303, requires that:

"the coordinator and the other relevant competent authorities shall at least require regulated entities or mixed financial holding companies to report the following: […]

(d) information on how conflicts of interests and risks of contagion at the level of the financial conglomerate regarding significant intra-group transactions are managed, taking into consideration the financial conglomerate´s strategy to combine activities in the banking, insurance and investment services sectors, or a sectoral own risks self-assessment including a consideration on the management of conflicts of interests and risks of contagion regarding significant intra-group transactions."

This information shall be included in the present reporting, in a free format.

3. Threshold

For the purpose of the reporting, the level of the threshold is set by Article 8(2) FICOD;

"Insofar as no definition of the thresholds referred to in the last sentence of the first paragraph of Annex II has been drawn up, an intra-group transaction shall be presumed to be significant if its

amount exceeds at least 5 % of the total amount of capital adequacy requirements at the level of a financial conglomerate."

The coordinator sets the adjustments to the threshold levels, after consultation with the other relevant competent authorities and the conglomerate.

4. Remittance dates and channel of communication

The decision regarding the frequency of the reporting (e. quarterly, semi-annually, yearly…) is within the remit of the coordinator, after consultation with the other relevant competent authorities and should be notified to the financial conglomerate in due course.

Yet, as required by the Directive, the conglomerates shall address reporting at least annually to the coordinator. Financial conglomerates are expected to report transactions (i) in-force at the start of the reporting period, (ii) incepted during the reporting period and outstanding at the reporting date (iii) incepted and expired/matured during the reporting period.

The completed template should be addressed to the coordinator in an electronic format.

Current requirements as regards the reporting of information on risk concentration

The legal basis for risk concentration reporting is provided in Article 7(2) FICOD that states Member States "*shall require regulated entities or mixed financial holding to report on a regular basis and at least annually to the coordinator any significant risk concentration at the level of the financial conglomerate"*.

Risk concentration is defined in Article 2 (19) FICOD as "*all risk exposures with a loss potential borne by entities within a financial conglomerate, which are large enough to threaten the solvency or the financial position in general of the regulated entities in the financial conglomerate, whether such exposures are caused by counterparty risk/credit risk, investment risk, insurance risk, market risk, other risks, or a combination or interaction of these risks*".

Lastly, Article 3 of Commission Delegated Regulation (EU) 2015/2303 provides more precise formulation of the definition of risk concentration.

Main features

1. Scope

Given the definition of risk concentration in the context of FICOD reporting, the scope of exposures to be monitored and reported, where significant at the level of the financial conglomerate, are those concerning all regulated and unregulated entities of the financial conglomerate, including the mixed financial holding companies (MFHCs) as referred to in Article 3(1) and (3) of Commission Delegated Regulation (EU) 2015/2303.

It is worth noticing that Article 6(2) FICOD does not replicate the possibility given to the coordinator by Article 6(5), when calculating supplementary capital adequacy requirements, not to include a particular entity within the scope. The absence of provisions regarding supervisory ability to grant risk concentration waivers leads to conclude that the legislator deemed necessary, subject to appropriate threshold for determining the significance, to take into account all exposures arising from any regulated or unregulated entities within the financial conglomerate towards external counterparties.

However, in accordance with Article 7 and Annex II of FiCOD, the coordinator, after consultation with the other relevant competent authorities, shall identify the type of risks to be reported. In particular, the coordinator may only require the reporting of information on significant risk concentration which have not already been provided by a regulated entity belonging to the financial conglomerate under sectorial regulation in order to avoid unnecessary duplication of information requests.

2. Structural features of the reporting

In accordance with Article 3 of Commission Delegated Regulation (EU) 2015/2303, the set of information to be reported is quite broad. The following information would be required:

- ✓ Types of risk concentration;
- ✓ Name, company register number or other identification number of the external counterparties and if those counterparties are interconnected;
- ✓ Economic sector;
- ✓ Geographical area or country;
- ✓ Currency;
- ✓ Total gross amount of each significant risk concentration (before taking account of any risk mitigation techniques and risk weighting factors);
- ✓ Total net amount of each significant risk concentration (after taking into account of any risk mitigation techniques and risk weighting factors, if applicable);

The information is required for each significant risk concentration arising from direct and indirect exposures in both on-balance and off-balance sheets.

Additionally, the following qualitative information would be requested:

- ✓ Description of the significant risk concentration according to the types of risks;

✓ Information on how conflicts of interests and risks of contagion at the level of the financial conglomerate regarding significant risk concentration are managed. Such information is usually provided in an ad hoc policy.

Therefore, the data on exposures to be collected need to be granular enough in order to allow the analysis by the several dimensions such as type of risks, counterparties, sectors, etc.

The Joint Committee of the ESAs has considered existing templates, in particular the Solvency II risk concentration template (S.37 Risk Concentration) and the Capital Requirements Regulation (EU) No. 575/2013[7] reporting template on large exposures.

The proposed risk concentration reporting templates are the combination of:

- One "open" template similar to *the Solvency II* one (template S.06 RC counterparties), for the collection of granular data on exposures broken down by counterparty, in order to allow supervisors to identify and monitor the significant exposures by counterparty and type of risks. This open template should be reported only for significant exposures, i.e. exposures that hit the thresholds;

- Two synthetic tables (FC.07 Currency sector country and FC.08 Asset and class rating) reporting the risk concentration, at financial conglomerate level, broken down by sector, country and currency and by asset class and rating. The proposal is that such tables are based on the whole amount of the financial conglomerate's exposures to third parties, significant and not significant or all the exposure of the asset classes, in order to have a synthetic view on the major exposures at the financial conglomerate level for each feature The burden of reporting all exposures is not expected to be much higher compared to a reporting based only on significant exposures.

A certain number of specific structural features have been further considered. The main ones are the following:

✓ Direct and indirect exposures: the template should also capture the exposure of a credit institution or investment firm belonging to a financial conglomerate guaranteed by a third party, or secured by collateral issued by a third party under the substitution approach set out in Article 403 of Regulation (EU) No 575/2013. The regulated entities or mixed financial holding companies should deduct the protected part of the original exposure (direct exposure) from their exposure to the original external counterparty and assign it to the third party providing the protection;

✓ Group of connected counterparties: the proposal is to identify risk concentrations arising from exposures towards external counterparties, which are so closely linked that it is more relevant to treat them as a single exposure. The financial conglomerates would be required to report such exposures broken down by single counterparty and to allow the identification of group

[7] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012

of counterparties with an ad hoc cell (Name of the group of connected counterparties)). The reporting broken down by single counterparty would allow supervisors to analyse the exposures by counterparties and type of risks. For reporting purposes the term "group of connected counterparties" or "group of counterparties" is deemed equivalent to "group of connected clients" according to Article 4 (1) 39 of the Capital Requirements Regulation (EU) No. 575/2013.

- ✓ The amount after taking into account the risk mitigation techniques of the exposures: the proposal is to require the reporting of the amount of exposures after:
  - any insurance risk mitigation technique (such as reinsurance) and
  - any credit risk mitigation technique (e.g. according to chapter 4 of CRR) and
  - exemptions according to the banking sectoral rules (e. g. the exemptions applied by competent authority according to Article 400 of CRR or Member states according to article 493) or insurance sectorial rules (e. g. article 187 Solvency II Delegated Regulation).

The coordinator may permit the FICOD not to report the exposure exempted under the relevant banking and insurance sectorial rules.

3. Threshold

For the purpose of the reporting, Article 7 FICOD does not specify a default threshold for the determination of the significance of risk concentrations to be reported. It may be introduced by the coordinator, in coordination with the relevant competent authorities and the conglomerate. Templates FC07 and FC08 are based on all the exposures of the conglomerate.

The coordinator may define the number of items reported under the risk concentration templates.

4. Submission dates and channel of communication

The decision regarding the frequency of the reporting (e. quarterly, semi-annually, yearly…) is within the remit of coordinator and should be notified to the financial conglomerate in due course.

Yet, as required by FICOD, the reporting shall be addressed at least annually to the coordinator in an electronic format. For annual reporting, reference date should be 31st December, unless the financial conglomerate uses a different reporting date.

4. Draft Implementing Technical Standards

COMMISSION IMPLEMENTING REGULATION (EU) No …/...

laying down implementing technical standards with regard to supervisory reporting of risk concentrations and intra-group transactions according to Directive 2002/87/EC of the European Parliament and of the Council

of XXX

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,
Having regard to Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council[8], and in particular Article 21a (2b) and (2c) thereof;

Whereas:
1. Commission Delegated Regulation (EU) 2015/2303[9] of 28 July 2015 lays down rules regarding the establishment of a more precise formulation of the definition of intra-group transactions and risk concentration.

2. Coordinators are responsible to perform a supervisory overview of significant intra-group transactions and significant risk concentration at the level of the financial conglomerate and for identifying the types of risks and transactions that regulated entities or mixed financial holding companies in financial conglomerates should report. They are also empowered to set the thresholds determining the significance of intragroup transactions and risk concentration in accordance with Annex II of Directive 2002/87/EC, after consultation with the other relevant competent authorities and the conglomerate.

3. Coordinators and other relevant competent authorities are expected to take into account the particular situation of each specific financial conglomerate and the existing sector-specific requirements on intra-group transactions and risk concentration specifically when

[8] OJ L 35, 11.2.2003, p.1-27

[9] Commission Delegated Regulation (EU) 2015/2303 of 28 July 2015 supplementing Directive 2002/87/EC of the European Parliament and of the Council with regard to regulatory technical standards specifying the definitions and coordinating the supplementary supervision of risk concentration and intra-group transactions (OJ L 326, 11.12.2015, p.34-38).

determining whether transactions and risks between group entities in each of the financial sectors are significant pursuant to Annex II of Directive 2002/87/EC.

4. Regulated entities and mixed financial holding companies should report significant intra-group transactions and significant risk concentration in a consistent manner. This will help coordinators and other relevant competent authorities to identify relevant issues and to exchange information more efficiently. In order to achieve consistency in the reports, regulated entities and mixed financial holding companies should report at least standardised information to the coordinators.

5. Reporting requirements with respect to the supplementary supervision vary across the EU. While acknowledging existing EU and national legal frameworks, in order to facilitate coordinated supervisory practices across the EU, competent authorities should at least take into account certain reporting requirements.

6. The requirements of this Regulation are without prejudice to the sectoral rules applicable.

7. This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authorities (European Banking Authority, European Insurance and Occupational Pensions Authority, European Securities and Markets Authority) to the Commission.

8. The European Supervisory Authorities have 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 opinion of the European Supervisory Authorities' respective Stakeholder Groups in accordance with Article 37 of Regulation (EU) No 1093/2010, Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010 respectively.

HAS ADOPTED THIS REGULATION:

This Regulation specifies the obligation of reporting of significant intra-group transactions and significant risk concentration according to Paragraph (2b) and (2c) of Directive 2002/87/EC of the European Parliament and of the Council.

Article 1 - Scope and frequency

1. The coordinator, after consultation with the relevant competent authorities, may request regulated entities or mixed financial holding companies to submit information regarding significant risk concentration and significant intra group transactions more frequently than on an annual basis or to submit information on an ad hoc basis.

2. Regulated entities or mixed financial holding companies shall ensure that the data reported under this Regulation are consistent with the data submitted under the requirements of the relevant sectoral legislation.

3. Corrections to the data shall be submitted to the coordinator without undue delay.

4. The coordinator, after consultation with the relevant competent authorities, shall specify the type of transactions regulated entities or mixed financial holding companies shall report.

Article 2 Format of reporting on significant risk concentration

1. In order to report information on significant risk concentration pursuant to Article 7 (2) of Directive 2002/87/EU, regulated entities or mixed financial holding companies shall submit information as specified in templates 6 to 8 of Annex I to this Regulation according to the instructions of Annex II to this Regulation. Where relevant, additional information on risk concentration shall be submitted to the coordinator.

2. In order to report information on how conflicts of interests and risks of contagion at the level of the financial conglomerate regarding significant intra-group transactions are managed pursuant to Article 2 (4) (d) of Commission Delegated Regulation (EU) 2015/2303, regulated entities or mixed financial holding companies shall submit information to the coordinator.

Article 3 Format reporting on significant intra-group transactions

In order to report information on significant intra-group transactions pursuant to Article 8 (2) of Directive 2002/87/EU, regulated entities or mixed financial holding companies shall submit information as specified in templates 0 to 5 of Annex I to this Regulation according to the instructions of Annex II to this Regulation.

Article 4 Transmission

Regulated entities or mixed financial holding companies shall submit the information referred to in this Regulation in the data exchange formats specified by the coordinator, in accordance with the following specifications:

(a) data points shall be reported using no decimals and a precision equivalent to units;

(b) the reporting currency to be used is the one used for the preparation of the consolidated financial statements.

Article 5 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 apply from 1st January 2022.

[ANNEX I]

[Templates added to Annex I to Commission Implementing Regulation (EU) N0 XXXXX]

[ANNEX II]

[Instructions added to Annex II to Commission Implementing Regulation (EU) N0 XXX]

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

This section evaluates the impact of the draft regulatory technical standards developed by the Joint Committee of the ESAs in accordance with Article 21a FICOD, which aims to ensure harmonised reporting under Article 7 (2) and 8 (2) FICOD.

A. Problem identification

The Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (hereinafter: "FICOD") was published in the Official Journal of the European Union on 11 February 2003 and had to be implemented by 11 August 2004.

FICOD was the first cross-sectoral legislative act in the field of prudential supervision. It is a minimum harmonisation Directive. Cooperation between supervisors of different sectors was limited at that time and international cooperation in general was still in a developing stage.

Since the publication of FICOD, sectoral legislation both at the insurance side and the banking side has developed significantly, with a level of detail that is in sharp contrast to the provisions of the FICOD.

While all Member States have implemented FICOD and apply financial conglomerate supervision, the supervisory means through which this has been done differ substantially. The open and flexible provisions of FICOD raise the problem of divergent implementation. An insufficient or uneven coverage of conglomerate risks may be the consequence.

B. Policy objectives

The harmonization of the intra-group and risk concentration transaction templates aims to fully align the reporting under FICOD in order to enhance supervisory overview regarding group specific risks, in particular contagion and concentration risks. They will also increase comparability amongst financial conglomerates of different Member States improving supervisory consistency.

Further, the harmonization of the templates as proposed in Annex I and II of the draft implementing technical standard foreseen in this consultation paper enables to enhance the level playing field between institutions diminishing the reporting burden for cross country institutions. In doing so, the present regulation will contribute to the consolidation of the single market.

C. Options considered, assessment of the options and preferred options

This section presents the main policy options discussed and the decisions made during the development of the updated templates. Advantages and disadvantages, as well as potential costs and benefits of the policy options and the preferred options resulting from this analysis are also reported.

Option 1: No action: do not revise/update the national templates

Option 2.1: Intervention: ad-hoc templates

Option 2.2: Intervention: Templates on the basis of already existing template

Status quo (option 1) versus intervention (options 2)

There are advantages of maintaining national templates, mainly the absence of adaptation cost for financial conglomerates and of actions required.

Yet since the publication of FICOD in 2002, the landscape of financial conglomerate has substantially evolved. Today's environment and the complexity of institutions' organizations make it particularly important for supervisors to carefully monitor the contagion risk among financial conglomerate. The diversity of implementation of the reporting requirements raises several issues amongst which the discrepancies of reporting for cross country institutions and level playing field issues.

Detailed, harmonised monitoring is crucial in order to provide supervisors with the necessary information to promote a sustainable management and sustainable long-term risk levels across the EU. Collecting harmonised information on the intra-group exposures to various sub-sectors and channels of contagion risks, would allow recognizing trends and identifying vulnerabilities (early on).

Initially this will imply adjustments in the reporting for institutions (in the form of for example IT adaptations) increasing staff and IT cost.

Whilst recognizing the additional reporting burden that these proposed revisions would imply for institutions, most of the information should be expected to be readily available at institutions and should in fact be assumed to be part (to a certain extent) of their regular internal risk monitoring. Adding it to the supervisory reporting increases the reporting cost for institutions initially; however, in the long-run, the data collected can contribute to significantly increasing the understanding of the conglomerate by both institutions and supervisors and will significantly outweigh the cost for institutions, mainly IT development cost. Therefore intervention has been preferred as consistent with the main policy objective.

Ad hoc templates (Option 2.1) versus adapted existing templates (Option 2.2)

Special attention with regard to the issue of proportionality is warranted. The ESAs have considered existing templates. They also acknowledged the requirements stemming from sectoral regulation and in particular the Directive 2009/138/EC (Solvency II)'s intra-group transactions and risk concentration templates and took into consideration the facts that by definition (Article 2(14) FICOD) financial conglomerates:

- Are already partially subject to Solvency II reporting requirement, and
- Have, *in place at the level of the financial conglomerate, adequate risk management processes and internal control mechanisms* (Article 9(1) FICOD).

Therefore, basing the new templates on Solvency II intra-group transactions templates seemed (i) most appropriate to cover the features from the ITS and (ii) the one requiring least adaptations to already existing harmonized current practices. Therefore option 2.2.1 building from existing templates, i.e. Solvency II templates, has been preferred.

Additionally, the implementation of templates which are quite similar to the Solvency II ones would allow a more efficient application of the waiver of Article 213 (3) of the Solvency II Directive (Directive 2009/138/EC) that, if applied, would allow to report intra-group transactions and risk concentration only at the financial conglomerate level.

D. Conclusion

Based on the above considerations, the benefits of the proposed templates in the form of harmonized requirements are assessed to outweigh the costs of additional reporting.

5.2 Overview of questions for consultation

Question 1: Are the templates and instructions in Annex I and II of the draft implementing technical standard foreseen in this consultation paper clear to the respondents?

Question 2: Do the respondents identify any discrepancies between these templates and instructions and the requirements regarding risk concentration reporting set out in the underlying regulation?

Question 3: Do the respondents identify any discrepancies between these templates and instructions and the requirements regarding intra-group transaction reporting set out in the underlying regulation?

Question 4: Do the respondents agree that the ITS fits the purpose of the underlying regulation?

Question 5: Do you identify other benefits and costs not mentioned above associated to the proposed approach? If you advocated for a different approach in the responses to the previous questions, how would it impact this section on the impact assessment? Please provide details.

5.3 Feedback on the public consultation

Many respondents welcomed the draft ITS. They thought the measures set out in these draft ITS were sensible and proportionate.

Where respondents raised concerns, these broadly fell into the following three categories:
- The timeline and implementation period ;
- The standardisation of the data to be reported ;
- The interaction between Solvency II reporting and the conglomerate reporting.

Many respondent sought for clarification regarding the timeline for the entry into force of the new reporting format and suggested the introduction of a sufficiently long period for implementation.

The implementation date depends on the Commission's endorsement and the publication in the Official Journal of the European Union. Nevertheless these draft ITSs are intended to reduce the burden and enhance supervisory insight and should be applicable as soon as possible (e.g. in the course of 2020), and in force for the first year the data is fully available (e.g. remittance in 03.2022 for the 2021 data). Coordinators may ask the conglomerates to report as soon as 2020 under the new format to the best effort of the entities.

Many respondent issued comments that the standards were not prescriptive enough regarding the data to be reported. In particular, they argued that the standards insufficiently framed the power of the coordinator. In addition, some respondents regretted that the instructions did not provide for the treatment of certain entities e. g. investment firms or enable to disregard entities that should, for proportionality purposes, be excluded from reporting, e. g. non-financial entities. Finally many respondents voiced that the requirement relating to the templates FC07 and FC08 (risk concentration) based on the entirety of the balance sheet were unreasonably burdensome.

Regarding the powers of the coordinator, these stem from the provisions transposing in national law the requirement of the Annex II of the FICOD. Clarity has been brought to the reporting treatment of ancillary undertakings or investment firms. Regarding the exclusion of certain entities, in particular non-regulated subsidiaries or minority shareholder of the scope of supervision, the articles 7 and 8 of the FICOD do not provide, as for article 6 the possibility to exclude entities from the scope. Finally, regarding the use of the whole balance sheet for templates FC07 and FC08, this requirement stems from article 3(5) of DR 2015/2303.

In all cases, implementing technical standards are bound by level 1 text. Therefore modifications regarding the perimeter are neither in the scope nor the mandate of this ITS. Nevertheless supervisors are invited to specify the transaction to report under article 1(4) of this ITS.

Many respondent have pointed out that the interactions between Solvency II reporting and the conglomerate reporting are insufficiently taken into account.

However it may be recalled, that the apparent redundancies have been purposely introduced and the reporting have been aligned as far as possible and are aimed at reducing reporting burden. Yet there are differences, in particular regarding the scope of Solvency II and FICOD reporting which justify maintaining separate requirements. Furthermore, the intra group transaction and risk concentration reporting have vocation to be self-sufficient on a standalone basis as the coordinator of the conglomerate may not be the competent authority under Solvency II. Finally, during the SII

review 2020 regulators will take existing reporting provisions into account bearing in mind the objective to minimise supervisory burden for the entities.