

The logo for the European Banking Authority (EBA) is located in the top left corner. It consists of the letters 'EBA' in a large, white, sans-serif font. To the right of the letters, the words 'EUROPEAN BANKING AUTHORITY' are written in a smaller, white, sans-serif font, stacked vertically. The logo is set against a dark blue background with a vertical orange stripe on the left side.

EBA


EUROPEAN
BANKING
AUTHORITY

Draft RTS on the identification of a group of connected clients under Article 4 paragraph 1 number 39 of Regulation (EU) No 575/2013

Public hearing

Paris – July 13, 2022

Suggestions for an efficient session

- Should you need **assistance** or would like to **intervene**:
 1. **Write on WebEx chat** to any of the hosts or publicly;
 2. **Raise your hand on WebEx.**
- **To avoid background noise**, please **stay muted**  unless you take the floor.
- To increase audio quality please turn off video streaming.
- **Please identify yourself** (if you do not use full name on WebEx).
- For the **Q&A session**, please **write on the WebEx chat** to any of the **hosts for taking the floor** for a question.

1 Background and rationale

2 Identification of a group of connected clients

- Control relationship
- Economic dependency
- Combined existence of control relationships and economic dependencies
- Overview of the draft RTS on group of connected clients

3 Next steps

4 Overview of questions for consultation

Background and rationale (1)



- The Commission’s Risk Reduction Measures Package, amending, inter alia, Regulation (EU) No 575/2013 (CRR), includes new mandates for the EBA. **Article 4(4) of the CRR** mandates the EBA to:
 - “[...] develop draft regulatory technical standards *specifying in which circumstances the conditions set out in point (39) of paragraph 1 are met.*
 - EBA shall submit those draft regulatory technical standards to the Commission by 28 June 2020.”*
- In Article 4(1)(39) of the CRR, a **group of connected clients (GCC)** is defined. The conditions set out therein refer to cases in which **two or more natural or legal persons** who:
 - a) “[...] unless it is shown otherwise, *constitute a single risk because one of them, directly or indirectly, has control over the other or others;*
 - b) *are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, in particular funding or repayment difficulties, the other or all of the others would also be likely to encounter funding or repayment difficulties.”*
- The initial deadline was 28 June 2020. As reported in the EBA Risk Reduction Package Roadmaps, published in November 2019, the EBA deemed it beneficial to allow institutions to **gain sufficient experience with the application of the EBA Guidelines** before their partial integration into the draft RTS. For this reason, the **EBA is committed to submit** these draft RTS to the Commission **by December 2022.**

Background and rationale (2)



- These **draft RTS** revise and partially replace the **EBA Guidelines** (EBA/GL/2017/15) on connected clients published on 14 November 2017.
- Given that:
 - i. **All EU competent authorities** have declared **compliance** with these EBA Guidelines;
 - ii. The continued relevance of the guidelines on the alternative approach for exposures to central governments and for the control and management procedures;
 - iii. **Institutions** have **already** developed systems to **meet** the **obligations** under these **guidelines**;
 - iv. **CAs and banks** perceive that the **EBA Guidelines** are clear enough to allow their implementation by **RTS**.
- The approach taken by the EBA in developing these **draft RTS** has been to **leverage on the existing EBA Guidelines** for the parts that fall under the mandate of the RTS. EBA also conducted a stock-take amongst CAs and banks on those Guidelines.
- **Together with** the guidance for the alternative approach for exposures to central governments and for the control and management procedures for identifying clients that constitute a single risk included in the **EBA Guidelines**, it provides the **complete framework for the identification of groups of connected clients**.
- These draft RTS set out a non-exhaustive list of circumstances where a GCC shall be formed.

Identification of a group of connected clients

Control relationship



- Two or more natural or legal persons ***shall*** constitute a single risk when:
 1. One of them is required to prepare **consolidated financial statements** including the other or others:
 - a) Even in the absence of exposures towards the natural or legal person that controls the group;
 - b) Also where no consolidated financial statements are prepared due to exemptions or derogations).
 2. The natural or legal person:
 - a) **Holds the majority of the voting rights in another person or persons;**
 - b) Has the right or the **ability to appoint or remove the majority of the members of the administrative, management or supervisory body** of another person or persons;
 - c) Is in a position to **exercise dominant influence** over another person or persons pursuant to a law or contract, or provisions in memoranda or articles of association.
- Two or more natural or legal persons ***may*** constitute a single risk when the natural or legal person:
 - a) **Decides on the strategy or directs the activities** of another person or persons;
 - b) **Decides on important transactions**, such as the transfer of profits or losses of another person or persons;
 - c) **Has the right or ability to coordinate the management** of one or more natural or legal persons.

Identification of a group of connected clients

Economic dependency (1)



- Two or more natural or legal persons constitute a single risk because they are interconnected in a way that, where one of them were to experience financial problems, in particular funding or repayment difficulties, the other, or the others would also be likely to encounter financial problems. These RTS set out a non-exhaustive list of circumstances, which include cases where:
 - a) The insolvency or default of a natural or legal person is likely to result in the insolvency or default of another natural or legal person or persons;
 - b) A natural or legal person has fully or partly guaranteed a significant exposure of another natural or legal person;
 - c) A significant part of a natural or legal person's gross receipts or gross expenditures is derived from transactions with another natural or legal person that cannot be replaced in a timely manner without excessively increased costs;
 - d) A significant part of the goods produced or services offered by a natural or legal person is sold or supplied to another natural or legal person and that relationship cannot be replaced in a timely manner without excessively increased costs;
 - e) A significant part of the receivables or liabilities of a natural or legal person is to another natural or legal person;

Identification of a group of connected clients

Economic dependency (2)



- f) The **expected source of funds to repay the loans of two or more natural or legal persons is the same** and none of these persons has another independent source of income from which the loan may be serviced and fully repaid, and the expected source of funds cannot be replaced in a timely manner without excessively increased costs;
- g) It is expected that the financial problems of one natural or legal person would cause difficulties for another natural or legal person to fully and timely repay its liabilities, because the **persons are legally or contractually jointly liable to the institution;**
- h) Two or more natural or legal **persons rely on the same source for the majority of their funding** and, in the event of insolvency or default of that source of funding, that source of funding cannot be replaced in a timely manner without excessively increased costs;
- i) Two or more natural or legal persons are **managed on a unified basis** according to point (a) of paragraph 7 of Article 22 of Directive 2013/34/EU;
- j) The **administrative management or supervisory bodies of two or more legal persons consist for a major part of the same persons, common owners, managers or shareholders.**

Identification of a group of connected clients

Combined existence of control relationships and economic dependencies



- Three or more natural or legal persons shall constitute a **single risk, when two or more of these persons constitute a single risk by means of control and one or more natural or legal persons are connected to one or more of the persons being part of the control group by means of economic dependency.**
- **Where the person that is connected by means of economic dependency is also part of another group of connected clients, all persons, either being controlled by that economically dependent person or being themselves economically dependent on that person, shall also constitute a single risk with the persons of the control group.**
- For Articles 1 to 3 of the draft RTS, there is a discretion that allows that, **in exceptional cases, institution can demonstrate that no single risk prevails** despite the circumstances of the Article being met.
- Finally, it is set out that when it is **unclear** under which specific category of connections the **interconnection between different persons** should be classified, a general **principle of prudence** should prevail leading to **the assumption of the existence of a single risk.**

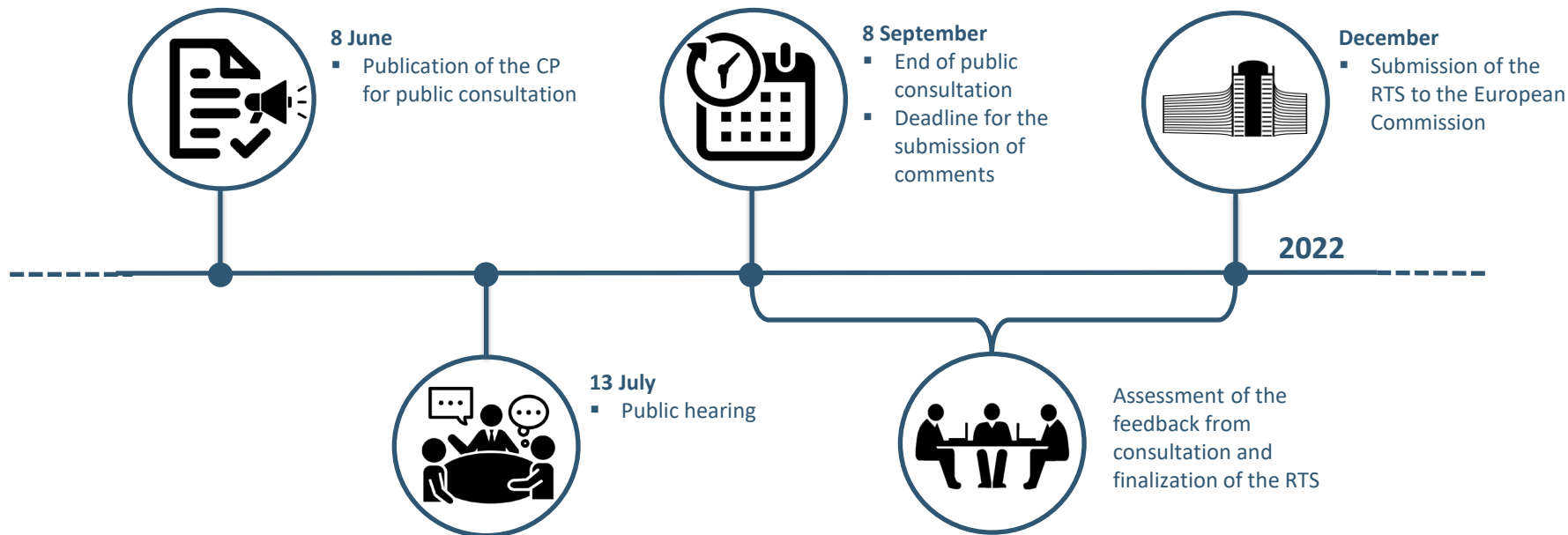
Overview of the draft RTS on group of connected clients

Comparison between the draft RTS and the EBA Guidelines



- The current **draft RTS** is **based on** the transposition of **Sections 4, 6 and 7** of the **EBA Guidelines** on connected clients and **complemented by LEX standards**.
- The **guidance** included in the EBA Guidelines **will stay in place for**:
 - a) The **alternative approach** of grouping when the head of the group is the central government, as specified in the second subparagraph of the definition (Section 5).
 - b) The control and **management procedures** for the identification of GCCs and the documentation and review requirements (Section 8).
- The main advantage of the EBA Guidelines is the possibility to have descriptive examples and illustrations of different grouping situations.
- **Three new examples have been added** (in the draft RTS) with regard to:
 - a) A simple control relationship (baseline scenario);
 - b) The case of common ownership; and
 - c) The case of a horizontal group.

Next steps



Overview of questions for consultation (1)

Reference	Question
Background	Q1: Could you please indicate, if the approach of sections 4, 6 and 7 of the existing EBA guidelines, now transposed in the Articles of the draft RTS, remains sound and is implementable with no major challenge or unduly high costs. Please elaborate.
	Q2: Have you identified any additional aspect(s) that would require clarification? In this vein, would you see the need for further illustrative examples (and if yes, on which precise situation or specific case)? Please elaborate.
Article 1	Q3: After considering the circumstances set out in Article 1 that constitute a single risk by means of control, could you please indicate if the described circumstances are sufficiently clear? Please elaborate.
	Q4: Is the additional Scenario C 0 related to the determination of a group of connected clients by means of control, listed in Section 3.4.1 (Groups of connected clients based on a control relationship), sufficiently clear? Would you see need for further illustrative examples of a control relationship?
Article 2	Q5: After considering the circumstances set out in Article 2 that constitute a single risk by means of economic dependency, could you please indicate if the described circumstances are sufficiently clear? Please elaborate.
	Q6: In point (c) of Article 2(1), would you prefer following a quantitative approach by replacing the term “significant part” with a threshold of “50% or more” as envisaged in point 1 of LEX 10.16? What would be the advantages or disadvantages? Please elaborate.
	Q7: What is your view on the wording “that cannot be replaced in a timely manner without excessively increased costs” compared to the wording used in the GL “that cannot be easily replaced”? What do you think about this change, is it more comprehensible? Please elaborate.
	Q8: Is the additional Scenario E 8 related to the determination of a group of connected clients by means of economic dependencies, listed in Section 3.4.2 (Establishing interconnectedness based on economic dependency), sufficiently clear? Would you see need for further illustrative examples of an economic dependency relationship? Please elaborate.

Overview of questions for consultation (2)

Reference	Question
Article 3	<p>Q9: After considering the circumstances set out in Article 3 that constitute a single risk by means of the combined existence of control and economic dependencies, could you please indicate if the described circumstances are sufficiently clear? Please elaborate.</p> <p>Q10: Is the additional Scenario E 7 related to the determination of a group of connected clients by means of the combined existence of control and economic dependencies, listed in Section 3.4.3 (Relation between interconnectedness through control and interconnectedness through economic dependency), sufficiently clear? Please elaborate.</p>

The logo for the European Banking Authority (EBA) is located in the top left corner. It consists of the letters 'EBA' in a large, white, sans-serif font. To the right of the letters, the words 'EUROPEAN BANKING AUTHORITY' are written in a smaller, white, sans-serif font, stacked vertically. The logo is set against a dark blue background with a subtle pattern of white lines.

EBA

EUROPEAN
BANKING
AUTHORITY

EUROPEAN BANKING AUTHORITY

Floor 24-27, Tour Europlaza
20 Avenue André Prothin
92400 Courbevoie, France

Tel: +33 1 86 52 70 00

E-mail: info@eba.europa.eu

<https://eba.europa.eu/>