



## RTS on own funds part 2: types of undertakings recognized as cooperatives, mutuals, savings institutions or similar institutions

Public Hearing

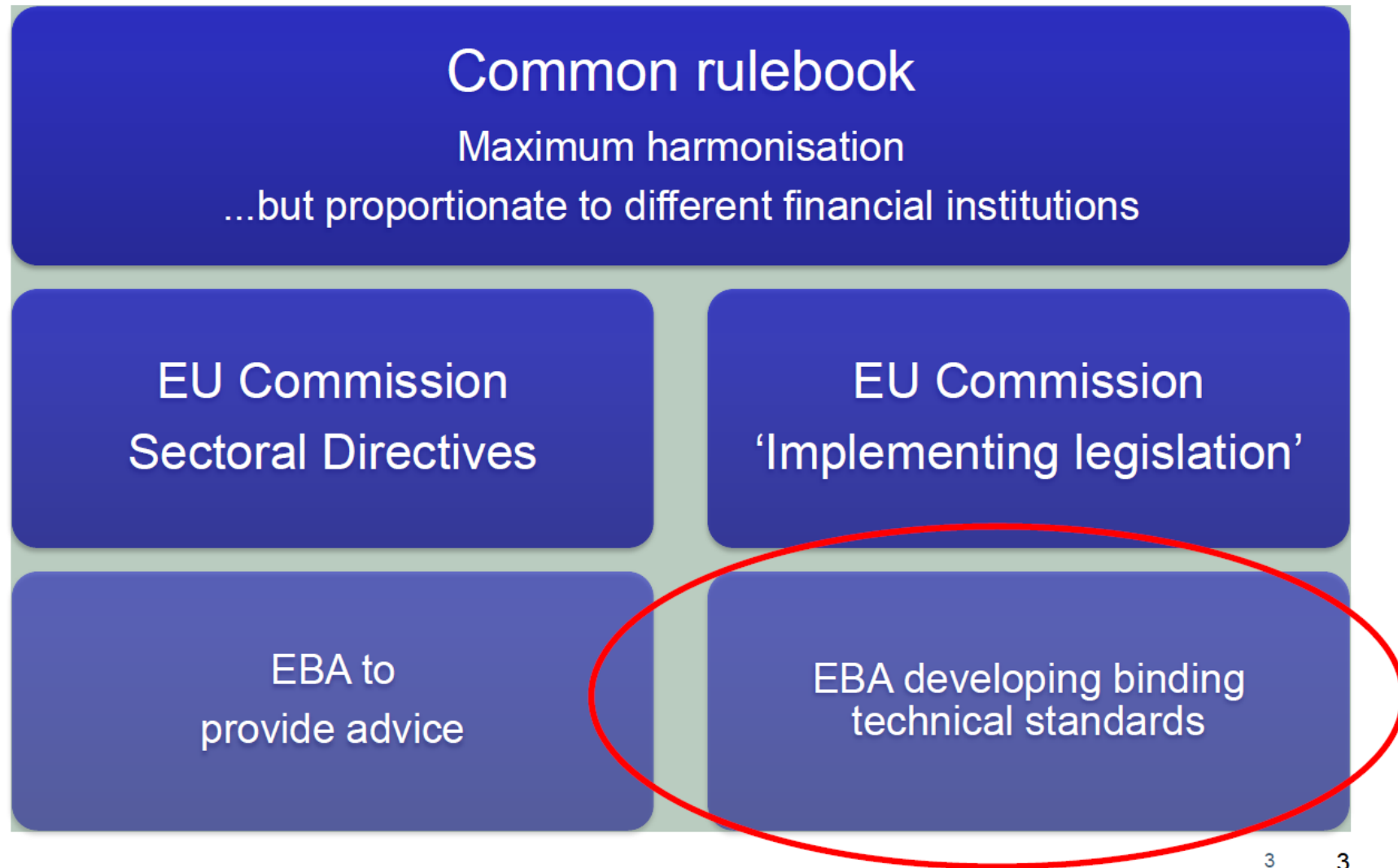
EBA

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# Agenda

- > Background :EBA tasks
- > Timeline of the RTS on own funds
- > Purpose of the RTS on own funds : Part two
- > Main features of the RTS on own funds : part two

# Background – EBA tasks – BTS



# Background – EBA tasks

- > Commission legislative package to strengthen the regulation of the banking sector and the proposal replaces the current Capital Requirements Directives (2006/48 and 2006/49) with a Directive and a Regulation
- > New proposals on capital requirements (CRR / CRDIV) were published on 20 July 2011
- > Presidency compromise texts published on 9 January 2012, 1 March 2012, 2 and 27 April 2012, 11 May 2012; the Commission, EP and Council are now preparing the final text in the Trilogue sessions
- > The draft CRR contains specific mandates for the EBA to develop draft Regulatory or Implementing Technical Standards (henceforth 'RTS' and 'ITS') related to Own Funds. These standards will be part of the single rulebook enhancing regulatory harmonisation in Europe with the particular aim of strengthening the quality of capital.

# Background – EBA tasks – BTS

- > Development of the draft BTS by a Project Team (standing committee, working group or other internal body identified in the EBA) with the support/lead of EBA Staff (policy and legal experts)
- > Cost-benefit and Impact Assessment analysis of proposals (unless where inappropriate or disproportionate, e.g. in cases of externally imposed deadlines) to be carried out according to EU standards
- > Adoption of draft proposals by the Board of Supervisors according to its rules of procedures
- > Public consultation and consultation of the BSG
- > Feedback process and updating of the proposal
- > Adoption of the draft RTS, publication and submission to the Commission

# Background – EBA tasks – BTS

- > The present draft RTS is based on the European Commission’s legislative proposals for the CRR/CRD IV. It has also taken into account some changes subsequently proposed in the revised texts, in particular to introduce a reference to “savings institutions”.
- > Following the end of the consultation period, and to the extent that the final text of the CRR changes before the adoption of the RTS, the EBA will adapt the draft RTS accordingly to reflect any developments.

# Timeline

- > The EBA issued a consultation paper on certain RTS on own funds which was published on 4 April 2012 as 'Part one' of the consultation on Own Funds. 14 single standards grouped together for consistency reasons.
- > The present consultation paper constitutes 'Part two' of the consultation. Contrary to part one, it consists of only one standard.
- > The consultation period will end on the 21 December 2012
- > EBA may consult on other standards on own funds depending on the final CRR.

## Timeline (cont.)

- > Objective: all RTS on own funds intended to be one integrated draft Regulation = completion of the EU single rulebook for institutions in the area of own funds
- On the basis of the final CRR/CRD texts
- On the basis of the answers to the consultations



# Purpose of the RTS on own funds : part two

- > The second part of the RTS on own funds on Article 25(2)(a) of CRR focuses on the conditions according to which competent authorities may determine that a type of undertaking recognised under applicable national law qualifies as a mutual, cooperative, savings institution or similar institution for the purposes of the recognition of CET1 instruments in the regulatory own funds of the institution.
- Objective: to take into account the specificities of the legal and statutory frameworks of mutuals, cooperatives, savings banks, and similar institutions in terms of own funds instruments, while at the same time mitigating the risk that any institution could operate under one of these specific status to which specific own funds requirements may apply, where the institution does not possess features which are common to mutuals, cooperatives, savings institutions or similar institutions.
- The proposed draft RTS complement the draft RTS on own funds published on 4 April 2012, in particular in terms of provisions related to mutuals, cooperative societies, savings institutions or similar institutions (see in particular Articles 4, 8, 18 and 32 of the consultation paper on the draft RTS on own funds).

## Main features of the RTS on own funds : part two

> The chosen approach relies on two types of conditions:

1. Institutions referred to in the draft RTS operate under specific dedicated rules under national company laws. The applicable national rules are listed;
2. In line with the mandate given to the EBA, the draft RTS focuses on elements which are of relevance to own funds (features linked to capital, reserves, etc) and which may lead competent authorities to recognise a type of undertaking as a mutual, cooperative society, savings institution or similar institution.

# Main features of the RTS on own funds : part two (cont.)

According to the draft RTS, those elements are the following:

- For all 4 types of institutions: the institution is able to issue, according to the national applicable law or company statutes, at the level of the legal entity, only capital instruments referred to in Article 27 of the CRR
- For cooperatives, the holders of the Common Equity Tier 1 instruments referred to in paragraph (b) have the ability to resign under the applicable national law and therefore may have a right to put the capital instrument back to the institution, subject to the restrictions of the applicable national law and of Regulation xx/XX/EU [CRR] and this Regulation [this refers to the text contained in EBA/CP/2012/02 of April 4 on technical standards on own funds- part one].

## Main features of the RTS on own funds : part two (cont.)

- For savings institutions, the sum of capital, reserves and interim or year-end profits, is not allowed, according to national applicable law, to be distributed to holders of Common Equity Tier 1 instruments. Such condition is deemed to be fulfilled even where the institution issues Common Equity Tier 1 instruments that grant the holders, on a going concern basis, a right on a part of the profits and reserves, unless prevented by the applicable national law. This part shall be proportionate to their contribution to the capital and reserves or, where permitted by the law of the Member State in which the institution has its registered office, in accordance with an alternative arrangement.
- For mutuals, the total amount or a partial amount of the sum of capital and reserves is owned by members of the institution. These members do not, in the ordinary course of business, benefit directly from the reserves, in particular through the payment of dividends. Such conditions are deemed to be fulfilled even where the institution issues Common Equity Tier 1 instruments that grant a right on the profits and reserves, unless prevented by the applicable national law.

## Main features of the RTS on own funds : part two (cont.)

> Finally for similar institutions, one or more of the following criteria must be met:

1. The holders of the Common Equity Tier 1 instruments referred to in paragraph (b) have the ability to resign under the applicable national law and therefore may have a right to put the capital instrument back to the institution, subject to the restrictions of the applicable national law and the provisions of Regulation xx/XX/EU [CRR] and this Regulation [this refers to the text contained in EBA/CP/2012/02 of April 4 on technical standards on own funds- part one];
2. The sum of capital, reserves and interim or year-end profits, is not allowed, according to applicable national law, to be distributed to holders of Common Equity Tier 1 instruments. Such condition is deemed to be fulfilled even where the institution issues Common Equity Tier 1 instruments that grant the holders, on a going concern basis, a right on a part of the profits and reserves, unless prevented by the applicable national law. This part shall be proportionate to their contribution to the capital and reserves or, where permitted by the law of the Member State in which the institution has its registered office, in accordance with an alternative arrangement;
3. The total amount or a partial amount of the sum of capital and reserves is owned by members of the institution but there is no possibility for these members to benefit directly from the reserves, in particular through the payment of dividends.

# RTS on own funds part two : questions session

Floor open for questions

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