

EBA-CP-2019-14

22 November 2019

Consultation Paper

Draft Implementing Technical Standards
on disclosure and reporting of MREL and TLAC

Contents

1. Responding to this consultation	3
2. Executive Summary	4
3. Background and rationale	6
4. Draft implementing technical standards	20
5. Accompanying documents	36
5.1 Draft cost-benefit analysis / impact assessment	36
5.2 Overview of questions for consultation	44

1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 22 February 2020. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

Regulation (EU) No 2019/876 ('CRR2') and Directive (EU) 2019/879 ('BRRD2') implement the FSB TLAC standard in the EU and amend the minimum requirement for own funds and eligible liabilities, (MREL) already in force since 2014. MREL and TLAC (formally known as 'G-SII requirement for own funds and eligible liabilities') must be met at all times. In order for markets and authorities to scrutinize compliance with both requirements, the new legislation also includes Pillar 3 disclosure requirements and supervisory reporting requirements on TLAC and MREL, respectively, and mandates the EBA to develop draft implementing technical standards implementing those requirements.

Following the mandates in the CRR2 and BRRD2, the EBA is consulting on proposed draft implementing technical standards (ITS) on supervisory reporting and public disclosure of TLAC and MREL. The draft ITS include proposals for templates and tables implementing the TLAC/MREL Pillar 3 disclosure requirements and the supervisory reporting requirements. In addition to the draft ITS, the consultation paper includes two recommended reporting templates covering the forecast of MREL and TLAC positions and funding structures, and a mapping file between disclosure and reporting.

This is the first time that the EBA is developing TLAC and MREL reporting and disclosure requirements, expanding the scope of the existing Pillar 3 and supervisory reporting frameworks in the EU. The approach followed sought to maximise efficiency by institutions when complying with their disclosure and reporting obligations, and to facilitate the use of information by authorities and market participants. For this purpose:

- MREL and TLAC are integrated inside both the reporting and disclosure templates;
- reporting and disclosure requirements are enshrined in a single ITS;
- and disclosure quantitative information is integrated with supervisory reporting data, and a mapping between both is provided.

The approach followed also seeks to maximise consistency and comparability of disclosures, in order to reinforce the Pillar 3 objectives of market discipline, with common templates and definitions developed in alignment with the relevant Basel Committee Pillar 3 standards¹.

Next steps

The proposal included in this consultation paper will be consulted for three months and the feedback received will be analysed afterwards.

¹ <https://www.bis.org/bcbs/publ/d400.pdf>

The EBA's submission of the final draft ITS to the EU Commission is expected to take place in June 2020. With regard to the reporting requirements, the EBA will also develop the data-point model (DPM), XBRL taxonomy and validation rules based on the final draft ITS, which are likely going to be published slightly later, in the third quarter of 2020.

The provisions of this ITS on the disclosure on TLAC are envisaged to apply immediately after its adoption by the European Commission and entry into force. In contrast, the provisions on the disclosure on MREL will apply from the date of the expiration of transition periods pursuant to Article 45m of Directive 2014/59/EU, i.e. from 1 January 2024 or, where the resolution authority set a compliance deadline after 1 January 2024, from that compliance deadline.

The first reference date for reporting in accordance with these technical standards is foreseen to be 30 June 2021, both for reporting on MREL and the TLAC requirement. The expected implementation period for the proposed reporting requirements is approximately 1 year.

3. Background and rationale

1. The banking package, and in particular Regulation (EU) No 2019/876 ('CRR2') amending Regulation (EU) No 575/2013 ('CRR') and Directive (EU) 2019/879 ('BRRD2') amending Directive 2014/59/EU (BRRD), implement the TLAC standard in the EU and amends the MREL requirement already in force since 2014. TLAC, formally the 'G-SII requirement for own funds and eligible liabilities', applies to G-SIIs² only, while MREL (minimum requirement for own funds and eligible liabilities) applies to the broader population of institutions (G-SIIs and non-GSIIs). For G-SIIs, MREL is composed of the TLAC requirement and, where appropriate, an institution-specific MREL add-on (Article 45d BRRD).
2. Institutions have the responsibility to ensure that MREL and TLAC are met 'at all times'³. To support that outcome, quality information is necessary to facilitate market pricing and discipline, as well as to facilitate the monitoring and enable the enforcement by supervisory and resolution authorities.
3. In this spirit both the CRR2 and the BRRD2 include disclosure and reporting requirements, respectively on TLAC and MREL, and mandates the EBA to develop draft implementing technical standards in order to implement these requirements.
4. This consultation paper presents proposals implementing the disclosure and reporting requirements on both MREL and TLAC in accordance with the mandates included in CRR2 and BRRD2, and on two reporting templates covering the forecast of MREL and TLAC positions and funding structures.

3.1 Disclosure and reporting requirements on TLAC/MREL

5. Institutions are required to report and disclose their MREL/TLAC capacity via various provisions of the new banking package:

3.1.1 Disclosure

6. Article 437a of the CRR requires institutions subject to TLAC and internal TLAC to disclose:
 - The composition of their own funds and eligible liabilities, their maturity and their main features;
 - The ranking of eligible liabilities in the creditor hierarchy;
 - the total amount of each issuance of eligible liabilities instruments that is subordinated and senior;

² Including entities that are part of a G-SII and material subsidiaries of non-EU G-SIIs

³ Article 92a(1) of the CRR, Article 45(1) of the BRRD.

- the total amount of excluded liabilities referred to in Article 72a (2) CRR.

7. For MREL, Article 45i(3) of the BRRD requires institutions to disclose the amount of own funds and eligible liabilities, the composition including maturity profile and ranking in insolvency, and the applicable MREL requirement of the institution.

3.1.2 Reporting

8. Article 430(1)(b) of the CRR requires institutions to report to their competent authorities on ‘ requirements laid down in Articles 92a and 92b’ (i.e. TLAC and internal TLAC requirements) without further specification of details.

9. Article 45i(1) of the BRRD requires institutions to report on MREL and internal MREL, covering:

- the amount of own funds and eligible liabilities counting towards the requirement;
- the amount of ‘other bailinable liabilities’;
- for the above, the composition, including maturity profile, their ranking in insolvency and whether they are governed by third country law and if so, which third country law and whether they contain bail-in recognition clauses pursuant to Article 55 of the BRRD.

10. Institutions for which the resolution plan provides that they would be wound up under normal insolvency proceedings are exempted from reporting and disclosure requirements set in the BRRD.

3.2 The disclosure and reporting mandates in the CRR2 and BRRD2

11. In tune with the substantial requirements, the corresponding EBA mandates on disclosure and reporting are also enshrined in separate provisions, but with extensive similarities:

- TLAC disclosure (Article 434a CRR): EBA shall specify uniform disclosure formats, and associated instructions.
- MREL disclosure (Article 45i(6) BRRD): EBA is mandated to specify uniform disclosure formats, frequency and associated instructions.
- TLAC reporting (Article 430(7) CRR): EBA is mandated to specify the uniform reporting templates, the instructions and methodology on how to use the templates, the frequency and dates of reporting, the definitions and the IT solutions;
- MREL reporting (Article 45i(5) BRRD): EBA is asked to specify uniform reporting templates, instructions and methodology on how to use the templates, frequency and dates of reporting, definitions and IT solutions. The mandate additionally mandates the EBA to specify ‘a standardised way of providing information on the ranking of items (...) applicable in national insolvency proceedings in each Member State’.

12. Three strong elements of consistency are emphasised by the mandates:

- Consistency with international standards for TLAC disclosure (Article 434a CRR): Concretely, the EBA should seek maximum consistency with the Pillar 3 disclosure standards published in March 2017 by the BCBS⁴. This does not prevent making adjustments to reflect specificities of the EU legal framework, but keeping the overall format of the BCBS standards.
- Alignment of reporting standards on MREL and TLAC (Article 45i(5) BRRD): For institutions subject to TLAC/internal TLAC, the ITS on reporting of MREL shall be aligned with the ITS on reporting of TLAC;
- Alignment of disclosure standards on MREL and TLAC (Article 45i(6) BRRD): For institutions subject to TLAC/internal TLAC, the ITS on disclosure of MREL shall be aligned with the ITS on TLAC disclosure;

3.3 The overall approach to the design of the templates

3.3.1 Integration of MREL and TLAC inside the reporting and disclosure templates

13. This proposal foresees that the TLAC and MREL information is implemented in a common ITS, albeit in separate columns. There are several arguments that support this approach:

- TLAC and MREL are both sources of loss absorption capacity on the basis of which resolution authorities will exercise resolution action.
- The two requirements are inextricably linked, which also finds its expression in the fact that MREL for G-SIIs is the combination of the TLAC requirement and, where applicable, an MREL add-on (Article 45d of the BRRD).
- The EBA mandates explicitly require the alignment, in the case of G-SIIs, between the TLAC and MREL reporting standards and between the TLAC and MREL disclosure standards, respectively.
- In terms of substance, MREL and TLAC rely on the same core of own funds and eligible liabilities, even though there are some elements specific to each requirement, with the eligibility of structured notes for meeting MREL and the deduction regime applicable in relation to TLAC being the most prominent differences.

14. Nevertheless, the framework acknowledges the differences between both requirements in terms of eligibility, calibration or scope of entities. For this reason an additive integration – where MREL-related items would be shown ‘on top’ of TLAC-related ones – cannot be achieved. Instead, comparable items of MREL and TLAC are showed next to each other, with their respective specificities.

⁴ Pillar 3 disclosure requirements – consolidated and enhanced framework - <https://www.bis.org/bcbs/publ/d400.pdf>

15. The integrated approach for MREL and TLAC ensures that disclosure and reporting templates are consistent for both type of requirements when relevant. It also ensures that G-SIIs will not have to produce separate disclosure and reporting templates for MREL and TLAC positions that are largely overlapping. Finally it also ensures consistent templates for G-SIIs and non-GSIIIs, facilitating the comparison among different institutions by authorities, in the case of reporting, and by market participants, in the case of disclosures.

3.3.2 Integration between reporting and disclosure requirements, enshrined in a single ITS

16. The consultation paper proposes a single comprehensive ITS implementing both disclosure and reporting requirements, taking into account the following considerations:

- Institutions have to implement both the disclosure and the reporting requirements included in this ITS on the basis of their resolution group, and not based on their prudential scope of consolidation, which sets these requirements apart from the majority of the other requirements included in the EBA disclosure and reporting frameworks. A framework that would not be integrated across disclosure and reporting would therefore likely increase the burden of compliance for institutions even further.
- In the case of TLAC disclosure requirements, the EBA is mandated to develop them in alignment with the relevant international standards. Given that there is some common information on TLAC/MREL that institutions are required to both report and disclose, not only the disclosure templates but also the reporting templates have been developed in alignment with the Basel III Pillar 3 TLAC disclosure templates, published by the BCBS in March 2017⁵. They have been adjusted when necessary to reflect the specificities of the EU framework for TLAC and MREL. Covering the requirements in one single standard supports the maintenance of the requirements in the future, and ensures in particular that the level of alignment with international standards achieved with this proposal is kept in case of future changes.
- Finally and in line with EBA's strategies for disclosure and reporting, consistency and integration between the disclosure and the reporting frameworks was sought to the extent possible. A mapping is provided not as part of the ITS, but as an accompanying document for informative purposes.

17. The implementation of the new TLAC/MREL disclosure and reporting frameworks in a single ITS, and the enhanced consistency between reporting and disclosure templates, together with the standardisation of formats and definitions, should facilitate the compliance with both requirements by institutions. Even more, the integration with supervisory reporting will contribute to ensuring the quality and comparability of the disclosed information and will further promote market discipline.

⁵ Pillar 3 disclosure requirements – consolidated and enhanced framework - <https://www.bis.org/bcbs/publ/d400.pdf>

3.3.3 Links with the ITS on Resolution Planning in reporting

18. As part of the development process, the option to fulfil the TLAC/MREL reporting mandates, on the basis of the existing liabilities structure template ('LIAB') of the ITS on Reporting for Resolution planning ('ResRep') was investigated. However, several obstacles to a successful integration were identified which relate to differences in the purpose and nature of the two reporting requirements, differences in their scope and level of application as well as differences and incompatibilities in terms of content and some of the terminology used.

19. For example, the LIAB template focuses on the composition of the balance sheet, similar to FINREP, and in particular the availability of liabilities for a bail-in. LIAB is reported either at individual level or at consolidated level (prudential and resolution group). However LIAB does not consider all the eligibility criteria defined in the MREL and TLAC frameworks. For example, it does not differentiate between counterparties within and those outside the resolution group and cannot sufficiently account for the hybrid approach combining own funds at consolidated level, liabilities at the point of entry, and liabilities at subsidiary level under the very specific conditions that are particular to the MREL TLAC framework. Therefore, at this stage LIAB is not suited to present regulatory aggregates like, for example, COREP does for own funds.

20. Nevertheless, the EBA has sought to ensure consistency and to take advantage of the synergies. In particular, this framework draws on the liability breakdown found in the existing LIAB template, narrowed down and adjusted to provide deeper insights into the structure of eligible liabilities in terms of instruments and funding.

3.4 The proposed disclosure and reporting requirements

3.4.1 Overview

21. The two tables below provide an overview of the proposed reporting and disclosure templates, including the frequency and level of reporting and disclosure.

22. Entities whose resolution plan provides that the entity is to be wound up under normal insolvency proceedings are not subject to any disclosure or reporting obligation in accordance with the proposed standards.

Table 1.: The disclosure requirements, frequency of disclosure and level of application

Topic and template		Resolution entity		Entity that is not a resolution entity	
		G-SII / entity being part of a G-SII	Entity other than G-SII	Material subsidiary of a non-EU G-SII	Other entities
Key metrics (Amounts)	KM2	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or ind (if no group) 	<ul style="list-style-type: none"> ▪ Semi-annual ▪ Conso (if group) or ind (if no group) 	X	
		<ul style="list-style-type: none"> ▪ Semi-annual ▪ Conso (if group) or ind (if no group) 	<ul style="list-style-type: none"> ▪ Annual ▪ Conso (if group) or ind (if no group) 	X	
Composition	TLAC1	<ul style="list-style-type: none"> ▪ Semi-annual ▪ Conso (if group) or ind (if no group) 	<ul style="list-style-type: none"> ▪ Annual ▪ Conso (if group) or ind (if no group) 	X	
	ILAC	X		<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or individual (if no group) 	<ul style="list-style-type: none"> ▪ Semi-annual
Creditor ranking	TLAC2	X		<ul style="list-style-type: none"> ▪ Semi-annual ▪ Individual 	<ul style="list-style-type: none"> ▪ Annual ▪ Individual
	TLAC3	<ul style="list-style-type: none"> ▪ Semi-annual ▪ Individual 	<ul style="list-style-type: none"> ▪ Annual ▪ Individual 	X	
Main features of ind. issuances	CCA	<ul style="list-style-type: none"> ▪ Semi-annual ▪ Conso (if group) or ind (if no group) 	X		<ul style="list-style-type: none"> ▪ Semi-annual (large), annual (other) or not at all (small and non-compl.) ▪ Conso (if group) or ind (if no group)

Conso = consolidated, ind = individual

Table 2.: The reporting requirements, frequency of reporting and level of application

Topic and template		Resolution entity		Entity that is not a resolution entity	
		G-SII / entity being part of a G-SII	Entity other than G-SII	Mat. subsidiary of a non-EU G-SII	Other entities
Key metrics (Amounts)	KM2	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or ind. (if no group) 	<ul style="list-style-type: none"> ▪ Quarterly 		
	TLAC1	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or ind. (if no group) 	<ul style="list-style-type: none"> ▪ Quarterly 		
Composition	ILAC			<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or individual (if no group) 	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso or ind, depending on requirem.
	LIAB MREL	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or ind. (if no group) 	<ul style="list-style-type: none"> ▪ Quarterly 	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or individual (if no group) 	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso or ind, depending on requirem.
Creditor ranking	TLAC2			<ul style="list-style-type: none"> ▪ Quarterly ▪ Individual 	<ul style="list-style-type: none"> ▪ Quarterly ▪ Individual
	TLAC3	<ul style="list-style-type: none"> ▪ Quarterly ▪ Individual 	<ul style="list-style-type: none"> ▪ Quarterly ▪ Individual 		
Contract-specific information	MTCI	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or ind. (if no group) 	<ul style="list-style-type: none"> ▪ Quarterly 	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso (if group) or ind. (if no group) 	<ul style="list-style-type: none"> ▪ Quarterly ▪ Conso or ind, depending on requirem.
Forecast	FORC1 / FORC2	<ul style="list-style-type: none"> ▪ Annual ▪ Conso (if group) or ind. (if no group) 	<ul style="list-style-type: none"> ▪ Annual 	<ul style="list-style-type: none"> ▪ Annual ▪ Conso (if group) or ind. (if no group) 	<ul style="list-style-type: none"> ▪ Annual ▪ Conso or ind, depending on requirem.

Conso = consolidated, ind = individual

3.4.2 The proposed disclosure templates and tables in accordance with CRR2 and BRRD2

Template EU KM2: key metrics - MREL and, where applicable, G-SII Requirement for own funds and eligible liabilities

23. This template provides summary information about institutions' loss-absorbing capacity available in case of resolution and about TLAC/MREL requirements. It implements the disclosures required in Article 447 (h) of CRR and Article 45i(3) (a) and (c) of BRRD. It has to be disclosed by resolution entities on the basis of the consolidated situation of their resolution group. The part on TLAC is only applicable to resolution entities that are G-SIIs or parts of G-SIIs.

24. The template has been developed in alignment with the relevant BCBS standard, template KM2, with some adjustments in order to cater for the EU specificities, and an additional column to reflect the MREL information.

25. Template KM2 in the BCBS standard has special rows to reflect the own funds amounts on an IFRS9 fully loaded basis at resolution group level. The EBA Guidelines on disclosure of IFRS 9 transitional arrangements (EBA/GL/2018/01) implement this information in the EU at the level of the prudential scope of consolidation. The instructions for KM2 as presented in this consultation paper require institutions to explain in the narrative accompanying the template any material difference between the own funds amounts disclosed in the template and the IFRS 9 fully loaded amount at the resolution group level. Institutions are also asked to explain any material difference between the IFRS 9 fully loaded amount at the resolution group level compared to the IFRS 9 fully loaded amount at prudential group level. A question is added in the relevant section of this consultation paper on whether respondents agree that this is a good way to request this information, rather than adding specific rows, considering that this information will cease to be relevant once the IFRS 9 transition period is over.

Template EU TLAC1 - Composition - MREL and, where applicable, the G-SII Requirement for own funds and eligible liabilities

26. This template provides granular information on composition of MREL and TLAC, including a breakdown of the aggregate information included in KM2 into more granular rows. It implements the disclosures required in Article 437a (a) and (c) of the CRR and some elements of the disclosure required in Article 45i(3) (b) of the BRRD. It has to be disclosed by resolution entities on the basis of the consolidated situation of their resolution group. The part on TLAC is only applicable to resolution entities that are G-SIIs or parts of G-SIIs.

27. This template has been designed in alignment with the 'TLAC1 Composition' template of the BCBS Pillar 3 standard, with two additional columns, one to reflect the information on MREL and another one to include information (memo items) on the amounts eligible for the purpose of MREL but not of TLAC.

Template EU iLAC - Internal loss absorbing capacity: internal MREL and, where applicable, requirement for own funds and eligible liabilities for non-EU G-SIIs

28. Since template EU TLAC1 is designed for the disclosure of external TLAC/MREL, a variant 'iLAC' template (disclosure) has been developed to reflect specific eligibility conditions for internal TLAC and internal MREL. This template implements the disclosure requirements on key metrics and on the internal loss absorption capacity by entities that are not themselves resolution entities, following Articles 437a (a) and (c) and 447 (h) of CRR2, and Article 45i (3) of BRRD. Those entities will not have to disclose neither KM2 nor TLAC1, but only iLAC.

29. This template is EU specific; there is no equivalent template in the BCBS Pillar 3 standards. The addition is justified by the fact that the BRRD2 reporting and disclosure requirements do not only apply at the level of resolution entities but also other entities provided they are not to be wound up under normal insolvency proceedings

Templates on creditor ranking: EU TLAC2: Creditor ranking - Entity that is not a resolution entity; EU TLAC3: creditor ranking - resolution entity

30. These templates provide information on insolvency ranking, and on the creditors' ranking in the liabilities structure, showing the distribution of liabilities across the hierarchy of claims, from own funds to the highest eligible liabilities instruments. This information, when disclosed, should help investors to understand their potential loss in case of a default of the entity, and when reported, it should support the assessment of potential constraints related to the 'No-creditor-worse-off'-principle (NCWO principle).

31. Both templates have been developed in alignment with the templates TLAC2 and TLAC3 of the BCBS Pillar 3 standard.

32. Template EU TLAC2 is applicable to entities that are not themselves resolution entities, following Articles 437a (b) CRR (for material subsidiaries of non-EU G-SIIs), and Article 45i (3) (b) of BRRD (for entities that are not themselves resolution entities).

33. Template EU TLAC3 is applicable to resolution entities, following Articles 437a (b) CRR (for resolution entities that are G-SIIs or parts of G-SIIs), and Article 45i (3) (b) of BRRD (for resolution entities other than G-SII).

Main features of individual issuances (TLAC disclosure only)

34. The BCBS Pillar 3 standards include a 'CCA main features' template which returns key information about individual capital instruments issued by an entity. CCA was already applicable to own funds and has been extended by the BCBS to cover TLAC eligible liabilities instruments. The template informs authorities and markets about the characteristics of eligible liabilities and through information such as the amount of each issuance, maturity, regulatory treatment, insolvency ranking, call options, write down and conversion etc.

35. Table EU CCA has been developed in alignment with the abovementioned BCBS standard, and in application of Article 437a (a) CRR. It will only have to be disclosed by entities subject to the TLAC framework, i.e. subject to the obligation to comply with the requirements of Articles 92a or 92b CRR, and will not have to be reported. The same template has to be disclosed by institutions to inform on the main features of their own funds instruments, following Article 437 CRR, and is part of the draft ITS on institutions public disclosures which is being consulted in parallel⁶. EU CCA will be disclosed in relation to all eligible liabilities instruments, including eligible liabilities instruments that are not subordinated to excluded liabilities provided they are fungible, negotiable financial instruments, at the exclusion of loans and deposits.

3.4.3 The proposed reporting requirements in accordance with CRR2 and BRRD2

36. The reporting templates are essentially consistent with the disclosure templates, with some adjustments to take into account competent and resolution authorities' data needs for monitoring compliance with the MREL/TLAC requirements.

Key metrics for MREL and TLAC – KM2 (Resolution entities)

37. This template contains the key information needed to monitor the MREL and TLAC position of resolution entities, and is broadly identical to the KM2 disclosure template described in the previous section.

38. Compared to the disclosure template, the reporting version covers additionally

- The amount of Total Liabilities and Own Funds that feeds into the analysis of resolution authorities when they draw up the resolution plan and calibrate the MREL requirement, including any particular subordination requirement included therein,
- The aggregate amount of own funds and eligible liabilities governed by third country law, and of those the ones containing a write down and conversion clause pursuant to Article 55 BRRD. This, in combination with the MTCI template (see below) provides competent and resolution authorities with insights into the significance of potential impediments to resolution stemming from the application of third country laws and
- The aggregate amount of “other-bail-inable liabilities” as requested pursuant to Article 45i(1)(b) of the BRRD, i.e. those liabilities that are not included in MREL, but are neither exempted from bail-in.

MREL and TLAC capacity and composition - TLAC1 (Resolution entities)

39. As its sister in disclosure, this template breaks down the aggregate information on own funds and eligible liabilities included in KM2 into more granular items. This is to enable competent and resolution authorities to understand the composition of own funds and eligible liabilities in terms

⁶ https://eba.europa.eu/news-press/calendar?p_p_id=8&_8_struts_action=%2Fcalendar%2Fview_event&_8_eventId=3004325

of eligibility and subordination in more detail and monitor the application of the cap for the recognition of non-subordinated liabilities for TLAC purposes and the amount of deducted items.

40. Compared to the sister template in disclosure, the reporting version includes additional memorandum items on investments in eligible liabilities of institutions which are to be reported by both G-SIIs and other entities, to understand the significance of intra-sectoral holdings of eligible liabilities on an overall scale.

Internal MREL and internal TLAC – ILAC (Entities other than resolution entities)

41. This template captures the key information needed to monitor MREL and TLAC positions of entities of a resolution group that are not resolution entities themselves. It follows the structure of KM2, but reflects the particularities of the internal MREL/TLAC frameworks, such as the additional criteria for the eligibility of own funds or the possible recognition of guarantees as internal MREL. The template is aligned with its counterpart in disclosure.

Funding structure of eligible liabilities – LIAB MREL (All entities)

42. The LIAB MREL template presents a breakdown of eligible liabilities by instrument and provides therefore insights into the funding structure of the eligible liabilities.

43. The information included in this templates also bridges the gap between the ITS on Resolution Planning Reporting (ResRep) and this ITS. While the LIAB template of the ITS on resolution planning reporting serves as a basis for resolution authorities to understand the level of resolvability of an institution and the overall quality and quantity of liabilities potentially available for bail-in, this ITS facilitates the monitoring of MREL TLAC eligible liabilities in terms of funding mix. The instrument breakdown included in the LIAB MREL template mirrors the one used in the LIAB template of the ITS on Resolution Planning Reporting, but covers only eligible liabilities.

Creditor ranking – TLAC2 (Entities other than resolution entities) / TLAC3 (Resolution entities)

44. These templates are different in terms of presentation from the corresponding disclosure templates for technical reasons and reasons of reporting technique, but are in principle fully aligned in terms of content. There will be a temporary misalignment until disclosure requirements for MREL enter into force: until then, G-SIIs will disclose liabilities potentially eligible for meeting TLAC while all institutions report liabilities potentially eligible for meeting MREL. Once the MREL disclosure requirement applies, all institutions report and disclose liabilities potentially eligible for meeting MREL.

Instruments governed by third-country law – MTCI (All entities)

45. The BRRD2 requires institutions to report whether the own funds, eligible liabilities and other bail-inable liabilities are governed by third country law and contain contractual write down and conversion clauses pursuant to Article 55 BRRD, Article 52 CRR and Article 63 CRR.

46. In order to address this element of the mandate, the MTCI template has been created which presents information on own funds and eligible liabilities instruments that are governed by third country law. The information reported will support the monitoring of the bail-in effectiveness, or potential obstacles thereto, by competent and resolution authorities.

47. This new template borrows a limited number of items included in the 'main features' template (CCA) of the disclosure framework, such as items related to the identification of the contract, the regulatory treatment of the instrument in question, the governing law, and whether the required bail-in clause is included.

48. Contrary to CCA, this template only covers instruments governed by third country law. Like CCA, eligible liabilities that are not subordinated to excluded liabilities are only being reported to the extent they are fungible, negotiable financial instruments to eliminate the need to report contract-specific information on loans and deposits.

49. In order to ensure that competent and resolution authorities are nevertheless aware of the overall volume of instruments governed by third country laws and their significance for the entity in question, the aggregate amount pertaining to instruments of such nature is reported in the reporting version of the key metrics template. For the same reasons, institutions are asked to report information on 'other bail-in-able liabilities' governed by third country law only on an aggregate basis as part of that template.

The forecast templates (All entities)

50. This proposal for new reporting requirements includes two templates which have a forward-looking character:

- one template that describes the expected evolution in funding of instruments eligible to MREL over three years, taking into consideration inflows, for example through the issuance of new MREL-eligible instruments or reclassification of amortised Tier 2 into eligible liabilities, as well as outflows such as outflows resulting from instruments ceasing to be eligible considering the maturity criterion or redemptions and
- one template capturing the forecast of the expected MREL position of the entity vis à vis its requirement over three years, taking into consideration rolling maturities, caps on senior debt and deductions.

51. The information included in those two templates is of particular relevance for resolution authorities during the build-up phase for MREL, lasting at least until 2024.

52. The two templates are not going to be a part of the technical standards included in this consultation paper. Instead, it is considered to published them in the form of a non-binding recommendation to authorities, which would contribute to the harmonisation of the format and intensity of information on future MREL stocks, and could also enable resolution colleges to interact on the basis of standard information. Due to the close relation between the templates and the rest of the MREL/TLAC

framework as reflected in the future draft ITS, those two templates are presented alongside the proposed future ITS-templates in this consultation.

3.5 Frequency

53. In relation to reporting, Article 430 CRR does not specify any minimum requirements or limits as regards the frequency of reporting on TLAC.

54. In contrast, Article 45i (2) of the BRRD defines minimum frequencies for reporting on MREL with an option for resolution or competent authorities to request more frequent reporting. In addition, Article 45i(5) of the BRRD, mandates the EBA to set frequencies which have to respect those minima.

55. Both the mandates included in the BRRD and those included in the CRR specifically empower EBA to define frequencies, respecting the boundaries of the Level 1 text.

56. On this basis, and in order to align the practical aspects of reporting (i.e. frequency, reference dates and submission deadlines) across supervisory reporting and MREL/TLAC reporting, all institutions in scope of the ITS are required to report all templates on a quarterly basis.

57. In relation to disclosure:

- Article 433a CRR requires ‘Large institutions subject to Articles 92a or 92b’ to disclose TLAC on a semi-annual basis, except for the key metrics which are to be disclosed on a quarterly basis. Article 433a and 433b CRR go on to set out less stringent frequencies in relation to ‘small institutions’ and ‘other institutions’.
- Article 45i (3) BRRD provides for MREL on an annual basis as a minimum. Like for MREL reporting, the EBA is mandated to specify frequency respecting the minimum.

58. On this basis, the disclosure frequencies are defined as follows:

- TLAC disclosure: quarterly disclosure of key metrics and semi-annual disclosure of other templates by large institutions that are subject to Article 92a or 92b of CRR; semi-annual disclosure of key metrics and annual disclosure of other templates by other institutions; semi-annual disclosure of key metrics by small and non-complex institutions. All EU G-SIIs are de facto large institutions (Article 4 (1) point 146 CRR). However, material subsidiaries of third country G-SIIs might fall into one of the other two categories;
- MREL disclosure by G-SIIs: disclosure frequencies identical to TLAC disclosure. This is possible by the fact that the BRRD only sets minimum frequencies and expressly calls for alignment with the ITS on TLAC;
- MREL disclosure by non-G-SIIs: semi-annual disclosure of key metrics and annual disclosure of other templates.

3.6 The standardised presentation of insolvency rankings

59. The reporting mandate included in Article 45i (5) BRRD requires EBA to specify ‘a standardised way of providing information on the ranking of items (...) applicable in national insolvency proceedings in each Member State’.

60. This mandate is related to an issue identified by the BCBS with regard to the disclosure on MREL and TLAC: As there is no harmonised presentation of each national hierarchy, the BCBS standard recommends that each institution individually provides a description of each creditor class.

61. This is suboptimal, because it creates unnecessary burden for reporting entities, as one and the same hierarchy would have to be described by different entities on their own. It also opens the door to divergent descriptions, which, among others, hinders structured and comparable reporting: no single class in a given country would be identified in a homogeneous manner. In the light of these issues, the Single Resolution Board (SRB), for example, has already published an insolvency ranking annex alongside its main Liability Data Report framework, to give a consensual presentation of the hierarchy of claims in every Participating Member State, which institutions are then required to refer to in their individual reports.

62. Of the proposed reporting templates, both the TLAC2/TLAC3 and MTCI templates contain some information on the ranking of instruments, which is clearly required by Level 1. The availability of a standardised list of insolvency ranks for each and every Member State would facilitate and harmonise not only the reporting of information in those templates, but could also benefit the compliance with the corresponding disclosure obligations (TLAC2/TLAC3 and CCA).

63. The harmonised presentation does not have any impact of the national hierarchies themselves, i.e. it does not harmonise insolvency law.

64. It is important to ensure that the information included in the standardised rankings is always fully aligned with national insolvency hierarchies and updated in a timely manner when those hierarchies change. Against this background, this proposal includes a harmonised format for the list of insolvency ranks to be prepared for each Member State. Resolution authorities are asked to compile the relevant information in that standardised format and make it available to entities subject to the BRRD under their jurisdiction and supervision. This approach provides for the necessary flexibility to adapt to changes in the national insolvency law without undue delay and enables resolution authorities to leverage on existing initiatives and practices.

4. Draft implementing technical standards

In between the text of the draft RTS/ITS/Guidelines/advice that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.

COMMISSION IMPLEMENTING REGULATION (EU) No .../... laying down implementing technical standards with regard to the supervisory reporting and public disclosure of the minimum requirement for own funds and eligible liabilities

of **XXX**

(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 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 648/2012⁷ and in particular point (b) of subparagraph 4 of Article 430 (7) and Article 434a thereof,
Having regard to Directive 2014/59/EU of 15 May 2014 of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council⁸ and in particular Article 45i (5) and (6) thereof,

Whereas:

- (1) On 9 November 2015, the Financial Stability Board published the Total Loss-Absorbing Capacity (TLAC) Term Sheet ('TLAC standard'), which was endorsed by the G-20 in November 2015. The objective of the TLAC standard is to ensure that global systemically important banks, referred to as global systemically important institutions ('G-SIIs') in the Union framework, have the loss-absorbing and recapitalisation capacity necessary to help ensure that, during resolution and immediately after resolution has taken taken, those institutions can continue to perform critical functions without putting taxpayers' funds or the financial stability at risk.
- (2) The harmonised minimum level of the TLAC standard for G-SIIs ('TLAC minimum requirement') was introduced in the Union legislation by Regulation (EU) 2019/876 of the European Parliament and of the Council⁹ amending Regulation (EU) No 575/2013. The institution-specific add-on for G-SIIs and the institution-specific requirement for non-G-SIIs, referred to as MREL, were established through targeted

⁷ OJ L 176, 27.6.2013, p. 1

⁸ OJ L 173, 12.06.2014, p. 190

⁹ Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 07.06.2019, p. 1)

amendments to Directive 2014/59/EU of the European Parliament and of the Council¹⁰. Reporting and disclosure requirements for both TLAC and MREL are now foreseen in Regulation (EU) No 575/2013 and in Directive 2014/59/EU respectively.

- (3) As the TLAC standard and the MREL are seen to pursue the same objective of ensuring that institutions and entities established in the Union have sufficient loss-absorbing and recapitalisation capacity, the two requirements are treated as complementary elements of a common framework. In line with this approach, this Regulation defines a set of templates for the reporting and public disclosure of harmonised information on the requirement for own funds and eligible liabilities for G-SIIs and material subsidiaries of non-EU G-SIIs (“TLAC”) and the institution-specific minimum requirement for own funds and eligible liabilities (“MREL”) applicable to all institutions.
- (4) Article 434a of Regulation (EU) No 575/2013 requires that this Regulation seek to maintain consistency of the disclosure formats foreseen herein with international standards on disclosures; this is important in order to facilitate the comparability of information. ”. The Basel Committee on Banking Supervision (BCBS) published in December 2018 updated Pillar 3 disclosure requirements, including TLAC disclosures. These requirements, together with updates which had been published on January 2015 and March 2017 and with the revisions to the leverage ratio disclosure requirements published in June 2019, complete the BCBS revised Pillar 3 framework. The revised BCBS Pillar 3 framework reflects the Committee's December 2017 Basel III post-crisis regulatory reforms. Against this background, the disclosure formats and associated instructions set out in this Regulation are fully in line with the BCBS revised Pillar 3 framework on TLAC disclosures.
- (5) To ensure that compliance costs for institutions are not unreasonably increased and that data quality is maintained, reporting and disclosure obligations should be aligned in their substance to the maximum extent possible with each other, including in terms of their frequency. Alignment of the technical standards is also explicitly required by Article 45i (5) and (6) of Directive 2014/59/EU. It is, therefore, appropriate to set out, in a single Regulation, standards applicable to both reporting and disclosure of TLAC and MREL. At the same time, the granularity and frequency of both reporting disclosures should be adjusted, as appropriate, having also regard to the requirements set out in Regulation (EU) No 575/2013 and Directive 2014/59/EU and to the need to ensure that institutions meet their requirements at all times.
- (6) Directive 2014/59/EU provides for information on MREL requirements to be reported to both competent and resolution authorities. Regulation (EU) No 575/2013 provides for information on TLAC to be reported to competent authorities only. However, pursuant to Article 45d of Directive 2014/59/EU the MREL requirement of a resolution entity that is a G-SII or part of a G-SII consists of the TLAC requirement and any additional add-on. It is therefore appropriate to ensure that resolution authorities obtain from G-SIIs information on TLAC as part of their

¹⁰ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190)

MREL reporting. This is without prejudice to arrangements concluded by competent and resolution authorities to minimise data flows.

- (7) Article 45i (5) of Directive 2014/59/EU requires that a standardized way of providing information on the ranking of own funds and bail-inable liabilities upon national insolvency proceeding in each Member State is, for reasons of comparability and legal certainty, set out in this Regulation. In line with this requirement, the Regulation provides that standardised information on insolvency hierarchies in each Member States should be made available, and updated in a timely manner, by the respective resolution authorities to institutions under their jurisdiction. This information should follow a standardised presentation of insolvency hierarchies set out in this Regulation.
- (8) The obligation to report and disclose information on TLAC in accordance with point (b) of Article 430 (1), Article 437a and point (h) of Article 447 CRR applies already since 28 June 2019. Consequently, once this Regulation has come into force, G-SIIs and material subsidiaries of non-EU-GSIIs should immediately disclose TLAC information in compliance with the templates and specifications set out in this Regulation. In contrast, the reporting on the TLAC requirement in accordance with this Regulation shall start only from 28 June 2021 to provide institutions and competent authorities with sufficient time to implement the requirements included in this Regulation.
- (9) In relation to MREL, the reporting obligations set out in Directive 2014/59/EU enter into force at the latest on 30 December 2020. However, for the same reasons as for TLAC, all institutions should report MREL information in compliance with the templates and specifications in this Regulation from 28 June 2021. In contrast, the entry into force of MREL disclosure obligations will coincide with the occurrence of the expiry of transition periods pursuant to Article 45m of Directive 2014/59/EU, i.e. on 1 January 2024 at the earliest.
- (10) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.
- (11) EBA 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 opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010¹¹.

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).

HAS ADOPTED THIS REGULATION:

TITLE I

SUPERVISORY REPORTING

CHAPTER 1

REPORTING REFERENCE AND REMITTANCE DATES

Article 1

Reporting reference dates

Entities subject to reporting requirements for TLAC and MREL on an individual or consolidated basis (“reporting entities”) shall submit information to competent authorities and resolution authorities as this information stands on the following reporting reference dates:

- (a) Quarterly reporting: 31 March, 30 June, 30 September and 31 December;
- (b) Semi-annual reporting: 30 June and 31 December;
- (c) Annual reporting: 31 December.

Article 2

Remittance dates

1. Reporting entities shall submit information to competent authorities and resolution authorities by close of business of the following remittance dates:

- (a) Quarterly reporting: 12 May, 11 August, 11 November and 11 February;
- (b) Semi-annual reporting: 11 August and 11 February;
- (c) Annual reporting: 11 February.

2. If the remittance day is a public holiday in the Member State of the competent authority or resolution authority to which the report is to be provided, or a Saturday or a Sunday, data shall be submitted on the following working day.

3. Reporting entities may submit unaudited figures. Where audited figures deviate from submitted unaudited figures, the revised, audited figures shall be submitted without undue delay. Unaudited figures shall mean figures that have not received an external auditor's opinion whereas audited figures shall mean figures audited by an external auditor expressing an audit opinion.

4. Reporting entities shall submit any other corrections to competent authorities and resolution authorities without undue delay.

CHAPTER 2

FORMAT AND FREQUENCY OF REPORTING

Article 3

Format and frequency for reporting by resolution entities that are not part of a group that is subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU on an individual basis

1. Resolution entities subject to the requirements referred to in Articles 45 and 45e of Directive 2014/59/EU on an individual basis due to them not being of a group that is subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU basis shall submit to competent and resolution authorities information as follows:

(a) Information on key metrics as specified in column 0010 of template 1 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 1 of Part II of Annex II.

(b) Information on the composition of the total own funds and eligible liabilities as specified in column 0010 of template 2 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.1 of Part II of Annex II.

(c) Information on the funding structure of own funds and eligible liabilities as specified in template 4 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.3 of Part II of Annex II.

(d) Information on instruments governed by third-country law, as specified in template 7 of Annex I, shall be reported with a quarterly frequency in accordance with the instructions in point 4 of Part II of Annex II.

2. Resolution entities shall submit to competent and resolution authorities information on the breakdown of the total own funds and liabilities by insolvency rank as specified in template 6 of Annex I on an individual basis with a quarterly frequency in accordance with the instructions in point 3.2 of Part II of Annex II.

3. In addition to the information referred to in paragraphs 1 and 2, resolution entities subject to the requirement set out in Article 92a Regulation (EU) No 575/2013 on an individual basis in accordance with Article 6 (1a) of Regulation (EU) No 575/2013 shall submit to resolution and competent authorities information on an individual basis as follows:

(a) Information on key metrics as specified in column 0020 of template 1 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 1 of Part II of Annex II of Annex II.

(b) Information on the composition of the total own funds and eligible liabilities as specified in column 0020 of template 2 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.1 of Part II of Annex II.

Article 4

Format and frequency of reporting by resolution entities on a consolidated basis

1. Resolution entities subject to the requirement set out in Articles 45 and 45e of Directive 2014/59/EU on a consolidated basis shall submit to competent authorities and resolution authorities information on a consolidated basis as follows:

(a) Information on key metrics as specified in column 0010 of template 1 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 1 of Part II of Annex II.

(b) Information on the composition of the total own funds and eligible liabilities as specified in column 0010 of template 2 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.1 of Part II of Annex II.

(c) Information on the funding structure of own funds and eligible liabilities as specified in template 4 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.3 of Part II of Annex II.

(d) Information on instruments governed by third-country law, as specified in template 7 of Annex I, shall be reported with a quarterly frequency in accordance with the instructions in point 4 of Part II of Annex II.

2. In addition to the information referred to in paragraph 1, resolution entities subject to the requirement set out in Article 92(a) of Regulation 575/2013 on a consolidated basis in accordance with Article 11 (3a) of that Regulation shall submit to competent and resolution authorities information on a consolidated basis as follows:

(a) Information on key metrics as specified in column 0020 of template 1 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 1 of Part II of Annex II of Annex II.

(b) Information on the composition of the total own funds and eligible liabilities as specified in column 0020 of template 2 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.1 of Part II of Annex II.

Article 5

Format and frequency of reporting on an individual basis by entities that are not themselves resolution entities and by material subsidiaries of non-EU G-SIIs

1. Entities that are not themselves resolution entities and are subject to the requirement set out in Articles 45 and 45f of Directive 2014/59/EU on an individual basis shall submit to competent and resolution authorities information on an individual basis as follows:

(a) Information on the amount and composition of the own funds and liabilities eligible to comply with the requirement of Articles 45 and 45f of Directive 2014/59/EU as specified in column 0010 of template 3 shall be reported with a quarterly frequency in accordance with the instructions in point 2.2 of Part II of Annex II;

(b) Information on the funding structure of own funds and eligible liabilities as specified in template 4 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.3 of Part II of Annex II.

(c) Information on instruments governed by third-country law, as specified in template 7 of Annex I, shall be reported with a quarterly frequency in accordance with the instructions in point 4 of Part II of Annex II.

2. Entities that are not themselves resolution entities shall submit to competent and resolution authorities information on the breakdown of the total own funds and liabilities by insolvency rank as specified in template 5 of Annex I on an individual basis with a quarterly frequency in accordance with the instructions in point 3.1 of Part II of Annex II.

3. In addition to the information referred to in paragraphs 1 and 2, entities that are material subsidiaries of non-EU G-SIIs and are subject to the requirement set out in Article 92b of Regulation (EU) No 575/2013 on an individual basis in accordance with Article 6 (1a) of Regulation (EU) No 575/2013 shall submit to competent authorities and resolution authorities information on the amount and composition of the own funds and liabilities eligible to comply with the requirement of Article 92b of Regulation (EU) No. 575/2013 as specified in column 0020 of template 4 on an individual basis with a quarterly frequency in accordance with the instructions in point 2.2 of Part II of Annex II.

Article 6

Format and frequency of reporting by entities that are not themselves resolution entities on a consolidated basis

1. Entities that are not themselves resolution entities and are obliged to comply on a consolidated basis with the requirement set out in Articles 45 and 45f of Directive 2014/59/EU shall submit to competent and resolution authorities information on a consolidated basis as follows:

(a) Information on the amount and composition of the own funds and liabilities eligible to comply with the requirement of Articles 45 and 45f of Directive 2014/59/EU as specified in column 0010 of template 3 shall be reported in accordance with the instructions in point 2.2 of Part II of Annex II with a quarterly frequency;

(b) Information on the funding structure of own funds and eligible liabilities as specified in template 4 of Annex I shall be reported with a quarterly frequency in accordance with the instructions in point 2.3 of Part II of Annex II.

(c) Information on instruments governed by third-country law, as specified in template 7 of Annex I, shall be reported with a quarterly frequency in accordance with the instructions in point 4 of Part II of Annex II.

(2) In addition to the information referred to in paragraph 1, entities that are material subsidiaries of non-EU G-SIIs and are subject to the requirement set out in Article 92b of Regulation (EU) No 575/2013 on a consolidated basis in accordance with Article 11 (3a) of that Regulation shall submit to competent and resolution authorities information on the amount and composition of the own funds and liabilities eligible to comply with the requirement of Article 92b of Regulation (EU) No 575/2013 as specified in column 0020 of template 4 on a consolidated basis with a quarterly frequency in accordance with the instructions in point 2.2 of Part II of Annex II.

CHAPTER 3

DATA PRECISION AND INFORMATION ASSOCIATED WITH SUBMISSIONS

Article 7

1. Reporting entities shall submit information referred to in this Regulation in the data exchange formats and representations specified by competent and resolution authorities, and in accordance with the data point definition included in the data point model and the validation formulae referred to in Annex III.
2. Where submitting information in accordance with this Regulation, the reporting entities shall observe all of the following:
 - (a) information that is not required or not applicable shall not be included in a data submission;
 - (b) numeric values shall be submitted as facts according to the following conventions:
 - i. data points with the data type 'Monetary' shall be reported using a minimum precision equivalent to thousands of units;
 - ii. data points with the data type 'Percentage' shall be expressed as per unit with a minimum precision equivalent to four decimals;
 - iii. data points with the data type 'Integer' shall be reported using no decimals and a precision equivalent to units.
 - (c) Institutions shall be identified solely by their Legal Entity Identifier (LEI). Legal entities and counterparties other than institutions shall be identified by their LEI where available.
3. Information submitted by reporting entities on the basis of this Regulation shall be associated with the following information:
 - (a) reporting reference date and reference period;
 - (b) reporting currency;
 - (c) accounting standard;
 - (d) identifier of the reporting institution (LEI);

(e) scope of consolidation.

CHAPTER 4

STANDARDISED WAY OF PROVIDING INFORMATION ON THE RANKING OF ITEMS IN NATIONAL INSOLVENCY PROCEEDINGS IN THE MEMBER STATES

Article 8

Standardised presentation of insolvency rankings

1. Resolution authorities shall compile information on the ranking of items in their national insolvency proceedings in the standardised format specified in Annex IV. They shall update that information when changes occur without undue delay.
2. Resolution authorities shall publish that information, or make it otherwise available to institutions subject to their supervision.

TITLE II

PUBLIC DISCLOSURE BY INSTITUTIONS

CHAPTER 1

LEVEL OF APPLICATION, FREQUENCY AND DISCLOSURE DATES

Article 9

Frequency of disclosures and disclosure date

1. Disclosures referred to in Article 10 (1) shall be made on a quarterly basis. Disclosures referred to in Article 10 (2) shall be made on a semi-annual basis.
2. Disclosures referred to in Articles 11 (1), 14 (1) and 15 shall be performed on a semi-annual basis. Disclosures referred to in Articles 11 (2) and 14 (2) shall be performed annually.
3. Disclosures referred to in Article 12 (1) shall be made on a quarterly basis. Disclosures referred to Article 12 (2) shall be made on a semi-annual basis.
4. Disclosures referred to in Article 13 (1) shall be made on a semi-annual basis. Disclosures referred to in Article 13 (2) shall be made annually.

5. When publicly disclosing, the disclosing entities should observe the following:

(a) Annual disclosures shall be published on the same date as the date on which institutions publish their financial statements or as soon as possible thereafter.

(b) Semi-annual and quarterly disclosures shall be published on the same date as the date on which the institutions publish their financial reports for the corresponding period, where applicable, or as soon as possible thereafter.

(c) Any delay between the date of publication of the disclosures required under this Part and the relevant financial statements shall be reasonable and, in any event, shall not exceed any timeframe set by competent authorities pursuant to Article 106 of Directive 2013/36/EU.

CHAPTER 2

UNIFORM DISCLOSURE FORMATS AND INSTRUCIONS

Article 10

Disclosure of key metrics on own funds and eligible liabilities and the requirements for own funds and eligible liabilities by resolution entities

1. Entities identified as resolution entities that are a G-SII or part of a G-SII shall make the disclosures required in point (h) of Article 447 of Regulation (EU) No 575/2013 and in points (a) and (c) of Article 45i(3) of Directive 2014/59/EU, in accordance with the Templates EU KM2 of Annex 5 and the relevant instructions set out in Annex 6.

2. Entities identified as resolution entities that are neither G-SIIs nor part of a G-SII shall make the disclosures required in points (a) and (c) of Article 45i (3) of Directive 2014/59/EU, in accordance with the Templates EU KM2 of Annex 5 and the relevant instructions set out in Annex 6.

Article 11

Disclosure of composition of own funds and eligible liabilities by resolution entities

1. Entities identified as resolution entities that are a G-SII or part of a G-SII shall make the disclosures required in points (a) and (c) of Article 437a of Regulation (EU) No 575/2013 and in point (b) of Article 45i (3) of Directive 2014/59/EU, in accordance with the Templates EU TLAC1 of Annex 5 and the relevant instructions set out in Annex 6.

2. Entities identified as resolution entities that are neither G-SIIs nor part of a G-SII shall make the disclosure required in point (b) of Article 45i (3) of Directive 2014/59/EU, in accordance with the Templates EU TLAC1 of Annex 5 and the relevant instructions set out in Annex 6.

Article 12

Disclosure of key metrics and internal loss absorption capacity by entities that are not themselves resolution entities

1. Entities that are material subsidiaries of non-EU G-SIIs and are not resolution entities shall make the disclosures set out in points (a) and (c) of Article 437a of Regulation (EU) No 575/2013, point (b) of Article 45i (3) of Directive 2014/59/EU, point (h) of Article 447 of Regulation (EU) No 575/2013 and points (a) and (c) of Article 45i (3) of Directive 2014/59/EU in accordance with the Templates EU ILAC1 of Annex 5 and the relevant instructions set out in Annex 6.

2. Entities other than material subsidiaries of non-EU G-SIIs that are not themselves resolution entities shall make the disclosures set out in point (b) of Article 45i (3) of Directive 2014/59/EU and points (a) and (c) of Article 45i of Directive 2014/59/EU in accordance with the Templates EU ILAC1 of Annex 5 and the relevant instructions set out in Annex 6.

Article 13

Disclosure of creditor ranking – Non-resolution entities

1. Entities that are material subsidiaries of non-EU G-SIIs and that are not resolution entities shall make the disclosures on maturity profile and ranking in insolvency proceeding set out in point (b) of Article 437a of Regulation (EU) No 575/2013 and point (b) of Article 45i (3) of Directive 2014/59/EU, in accordance with the Template EU TLAC2 of Annex 5 and the relevant instructions set out in Annex 6.

2. Entities other than material subsidiaries of non-EU G-SIIs that are not themselves resolution entities shall make the disclosures on the maturity profile and ranking in normal insolvency proceedings set out in point (b) of Article 45i (3) of Directive 2014/59/EU in accordance with the Template EU TLAC2 of Annex 5 and the relevant instructions set out in Annex 6.

Article 14

Disclosure of creditor ranking – Resolution entities

1. Entities identified as resolution entities and that are a G-SII or part of a G-SII shall make the disclosures set out in point (b) of Article 437a of Regulation (EU) No 575/2013 and the disclosures on the maturity profile and ranking in normal insolvency proceedings set out in point (b) of Article 45i (3) of Directive 2014/59/EU, in accordance with the Template EU TLAC3 of Annex 5 and the relevant instructions set out in Annex 6.

2. Entities identified as resolution entities other than G-SIIS shall make the disclosures on the maturity profile and ranking in normal insolvency proceedings set out in point (b) of Article 45i (3) of Directive 2014/59/EU, in accordance with the Template EU TLAC2 of Annex 5 and the relevant instructions set out in Annex 6.

Article 15

Disclosure of main features of own funds and eligible instruments

Entities identified as resolution entities and are a G-SII or part of a G-SII and entities that are material subsidiaries of non-EU G-SIIs and that are not resolution entities themselves shall make the disclosures set out in point (a) of Article 437a of Regulation (EU) No 575/2013, in accordance with the Template EU CCA of Annex 5 and the relevant instructions set out in Annex 6.

CHAPTER 3

GENERAL DISCLOSURE PROVISIONS

Article 16

1. Where Article 432 of Regulation (EU) No 575/2013 applies also having regard to the relevant EBA guidelines, disclosing entities need not populate the relevant rows or columns of the templates and tables referred to in this Regulation but they may not alter the numbering of subsequent rows or columns. Disclosing entities shall make a clear note in the relevant template or table of the rows or columns not populated and of the reason of the omission of the disclosure.

2. Where disclosing information in accordance with this Regulation, disclosing entities shall ensure that numeric values are submitted as facts according to the following:

(a) Quantitative monetary data shall be disclosed using a minimum precision equivalent to thousands of units;

(b) Quantitative data disclosed as 'Percentage' shall be expressed as per unit with a minimum precision equivalent to four decimals.

3. Where disclosing information in accordance with this Regulation, disclosing entities shall ensure that the data are associated with the following information:

- (a) disclosure reference date and reference period;
- (b) disclosure currency;
- (c) name and where relevant, identifier of the disclosing institution (LEI);
- (d) where relevant, accounting standard; and
- (e) where relevant, scope of consolidation

TITLE III

FINAL PROVISIONS

Article 17

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

Title I of this Regulation shall apply from 28 June 2021.

Title II of this Regulation shall apply as of the date of application of the disclosure requirements to which the templates relate, in accordance with Article 3 (3) of Regulation (EU) No 575/2013 and Article 3 of Directive 2014/59/EU.

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]

ANNEXES

Please see separate files

- Annex 1 - Reporting on MREL and TLAC – templates
- Annex 2 - Reporting on MREL and TLAC – instructions
- Annex 3 - DPM and validation rules
- Annex 4 - Reporting on MREL and TLAC – standardised ranking
- Annex 5 - Disclosure on MREL and TLAC – templates
- Annex 6 - Disclosure on MREL and TLAC – instructions
- Annex 7 – Forecast of MREL and TLAC – templates
- Annex 8 – Forecast of MREL and TLAC – instructions

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

As per Article 16(2) of Regulation (EU) No 1093/2010 (EBA Regulation), any guidelines and recommendations developed by the EBA shall be accompanied by an Impact Assessment (IA) which analyses ‘the potential related costs and benefits’.

This analysis presents the IA of the main policy options included in this Consultation Paper on the draft ITS on MREL and TLAC reporting and disclosure templates and the accompanying instructions. The templates have been developed by EBA based on the mandates under the Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 (CRR2) and Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU (BRRD2). In particular, the technical standards are based on the mandates in Articles 430(6) (TLAC reporting) and 434a (TLAC disclosure) of the CRR2, and in Articles 45i(5) (MREL reporting) and 45i(6) (MREL disclosure) of the BRRD2. The IA is high level and qualitative in nature.

A. Problem identification and background

The CRR2 and BRRD2 implement the Financial Stability Board’s (FSB) TLAC standard and complement the MREL requirement already in force since 2014. Given that these are new requirements for the banking sector, an entirely new reporting and disclosure framework has to be established to ensure consistent and effective information dissemination across all institutions.

Both the CRR2 and BRRD2 have provided the EBA with very specific mandates to implement this new framework. Not all mandates have the same level of specification and detail and some leave some room for EBA to decide on certain technical details. Further, the various players involved in the reporting process (supervisory authorities as well as resolution authorities), the different reporting and disclosure requirements for TLAC and MREL for institutions of different sizes (TLAC needs to be disclosed and reported for G-SIIs only, whilst MREL applies to all), as well as existing TLAC disclosure formats developed by the BCBS, required several crucial policy discussions and decisions during the execution of the mandate, in order to ensure a new framework that is user friendly, minimises the burden on institutions, provides maximum transparency and clarity, promotes market discipline and at the same time satisfies the standards set at the global level by Basel.

B. Policy objectives

The draft proposed MREL and TLAC reporting and disclosure templates and instructions presented in this consultation paper seek to extend the new reporting and disclosure framework in order to

cover TLAC/MREL provisions, having in mind the above. The proposed templates aim at providing a uniform reporting and disclosure framework for all institutions across the EU, in order to promote market discipline, maximise comparability and consistency of disclosed information not only across Europe, but also at the global level, and provide supervisory and resolution authorities with the necessary tools to monitor institutions' compliance with the TLAC/MREL requirements. The draft ITS templates and instructions provide the practical tools and framework for institutions to comply with the new reporting and disclosure requirements on MREL and TLAC under the revised European banking framework.

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

Section C. presents the main policy options discussed and the decisions made during the development of the templates and instructions. Advantages and disadvantages, as well as potential costs and benefits of the policy options and the preferred options resulting from this analysis are assessed below.

Underlying legal framework for the MREL and TLAC templates

Option 1a: Integrate MREL and TLAC into one single ITS (both reporting and disclosure)

Option 1b: Integrate MREL and TLAC into a single ITS for reporting and a single disclosure ITS

Option 1c: Keep separate underlying legal frameworks

MREL and TLAC requirements are included in different legal texts, MREL as part of the BRRD2 and TLAC in the CRR2.

Nevertheless, the audience/users to which the templates are addressed, are not separable across the different requirements (MREL, TLAC and their respective reporting and disclosure requirements). Reporting templates for TLAC under the CRR2 are to be submitted to competent authorities (CAs). MREL reporting requirements under the BRRD2 are relevant for both competent authorities and resolution authorities (RAs). As per Article 430 CRR2, TLAC data needs to be reported to CAs, whilst Article 45i BRRD2 requires MREL data to be reported to both CAs and RAs. Disclosure templates are published on institutions' websites. For the users of information on TLAC, MREL data should also be of interest and relevance, and vice versa.

From this the natural question arises as to whether the two requirements should be covered in separate ITS, thereby mirroring in level 2 the fact that the mandates originate from different level 1 texts, or whether to reflect them in one single ITS package. In addition, a choice needs to be made on whether to combine reporting and disclosure templates in one ITS.

Given the interconnection and common relevance of the templates for their users and recipients, it has been assessed that **option 1a, to reflect the new requirements on MREL and TLAC reporting/disclosure in one single ITS, is superior**. Having a single MREL/TLAC ITS on both reporting

and disclosure will increase clarity and usability for institutions, competent authorities, resolution authorities and the public.

Design and integration of MREL and TLAC templates

Option 2a: Integration of MREL and TLAC into the same reporting and disclosure template

Option 2b: Separate templates for MREL and TLAC (reporting and disclosure)

Besides the question on whether to have one combined ITS or separate ones, the next question that then arises is in how far to combine the actual templates within this comprehensive, combined ITS.

MREL and TLAC requirements show crucial similarities. First and foremost, MREL and TLAC have the same objective. They are both additions to the regulatory framework after the crisis, to ensure that institutions hold enough capital to absorb losses and to ensure that the cost of an institution's failure will be borne by its investors. Importantly, with some exceptions, the two requirements also rely on the same core of own funds and eligible liabilities.

They differ in that TLAC is a global requirement standard originated in Basel, published by the Financial Stability Board (FSB), while MREL is a European concept, built on TLAC. The former applies to G-SIIs¹² only, whilst MREL is applicable to all institutions. Further, the BCBS revised Pillar 3 framework includes TLAC disclosure standards, which do not account for the special features of the European MREL framework. While TLAC disclosure requirements are applicable since June 2019, MREL does not have to be disclosed until 2024. Lastly, each requirement has specific provisions regarding the eligibility of instruments for meeting the respective requirement: structured notes are eligible for MREL, but not TLAC, and only TLAC is subject to a deduction regime.

The existence of some crucial similarities and at the same time some non-negligible differences, give rise to the obvious question of whether TLAC and MREL templates should be integrated or kept separate. The question whether a single set of integrated templates to maximise the efficiency and simplicity for the submitting institution should be created, was carefully considered against the potential unnecessary confusion that integrated templates may cause with regards to some of the different elements that have to be disclosed and reported.

Having one common set of templates holds several benefits. G-SIIs would only need to fill in one template when disclosing/submitting their TLAC and MREL related information. At the same time, most of the information on own funds and eligible liabilities is very closely related as the requirements are overlapping, and hence one template would facilitate disclosure and reporting by G-SIIs. Further, having TLAC and MREL information in one place and one format, allows authorities and the public to make comparisons across categories. The advantages achieved with a framework providing for common disclosure and reporting templates that combine TLAC and MREL information have been assessed as very beneficial for the effectiveness and usability of the new requirements. **Option 2a has therefore been assessed as the preferred option** from the outset,

¹² Including entities that are part of a G-SII and material subsidiaries of non-EU G-SIIs

with several caveats identified and as a result necessary conditions attached to the design of such integrated templates, to ensure integration does not impede on clarity and efficiency.

TLAC requirements, including the reporting and disclosure requirements, have to be met and applied by G-SIIs only, whilst the MREL requirements apply to all institutions. (MREL for G-SIIs is the combination of the TLAC requirement and an MREL add-on). The risk stemming from the integrated presentation in the reporting and disclosure templates is therefore that non-G-SIIs would face an unnecessary disclosure and reporting burden, if they were asked to apply the TLAC provisions or report and disclose on them. Furthermore, no disclosure before 2024 is required for MREL. This has been circumvented by ensuring that the integrated templates maintain separate columns for both requirements. The separate columns also ensure that the specificities attached to the requirements, the deduction regime in the case of TLAC and structured notes eligibility in the case of MREL, are adhered to.

As such, the templates ensure streamlined and comparable reporting and disclosure by all institutions, whilst at the same time ensuring that the differences of the two requirements are reflected accordingly. Crucially, option 2a of integrated templates reflects the explicit request embedded in EBA's mandate to align the reporting and disclosure templates on MREL and TLAC for G-SIIs.

Integration of MREL/TLAC reporting with ITS on resolution planning

Option 3a: Build the new TLAC and MREL reporting templates (at least partially) on the existing resolution planning templates on liability structures (specifically, template 2, 'LIAB')

Option 3b: Create new TLAC and MREL reporting templates, ensuring consistency with existing LIAB template on the resolution planning side

In October 2018, EBA's new ITS on data collection for the purpose of resolution planning were adopted.¹³ These templates have been developed as a crucial piece of information in order for resolution authorities to draw up resolution plans, substantiate their resolvability assessment and their resolution strategy. Template 2 of the ITS' Annex I includes detailed information on institutions' liability structure and the liabilities excluded and not excluded from bail-in.

Aiming to minimise the reporting burden and thereby the duplication of reporting requirements for institutions, the possibility to build the new MREL and TLAC templates on the existing templates on liability structures has been explored. Closer assessment of the existing templates and their characteristics has however led to the conclusion that the resolution templates do not satisfy the information needs related to MREL and TLAC and that in fact their broader set up is too different to achieve integration.

¹³ [Implementing technical standards](#) with regard to procedures and standard forms and templates for the provision of information for the purposes of resolution plans for credit institutions and investment firms pursuant to Directive 2014/59/EU of the European Parliament and of the Council, and repealing Commission Implementing Regulation (EU) 2016/1066

Several factors have been identified that have led to the above conclusion, including the following:

- i) Anecdotal evidence from resolution authorities points to the unavoidability of further bilateral interaction with institutions in addition to the analysis of the LIAB templates received to get a complete picture of the liability structure, and in particular the eligibility of the liabilities included in the LIAB template for MREL and TLAC purposes;
- ii) LIAB is reported either at solo level or at consolidated level (prudential and resolution group), whilst MREL follows a hybrid approach, combining own funds at consolidated level, liabilities at the point of entry, and under very specific conditions liabilities at subsidiary level (in essence liabilities to existing shareholders);
- iii) LIAB reports 'intragroup' liabilities as liabilities to any entity in the accounting group while MREL requires isolating liabilities within and outside the resolution group;
- iv) LIAB is broken down by funding type rather than eligibility criteria;
- v) Existing LIAB templates are built on the concept of minimum harmonisation, whereas TLAC/MREL templates are constructed with maximum harmonisation in mind.

Lastly, vi) the LIAB template is part of a broader, and relatively recently developed information package for resolution planning purposes which covers also non-MREL related resolution aspects, such as information on intragroup financial connections and critical economic functions. Adjustments to this framework in order to account for the existence and features of the MREL and TLAC framework would risk compromising the other information collected in terms of use and quality.

Given these numerous factors which have been assessed to substantially compromise the feasibility and desirability of integrating the two templates, **Option 3a has been assessed as sub-optimal** at this stage. It has been assessed that new templates need to be constructed from scratch in order to ensure that TLAC and MREL information reported is complete and reliable. At the same time, the new templates have been created in a way to ensure maximum consistency with the existing LIAB templates.

Reporting and disclosure

Option 4a: Fully integrate the disclosure templates with the reporting templates ('one-to-one mapping')

Option 4b: Fully integrate the disclosure templates with the reporting templates ('flexible mapping')

Option 4c: No integration of the disclosure templates with the reporting templates

Full integration of the disclosure templates with the reporting templates in this context implies that every single quantitative information that features in the disclosure templates is either a) also an

item included in reporting, or b) derived from multiple reporting items. Therefore, every single disclosure item (bar qualitative information, see further below), can be traced back to one or several reporting items.

No or only partial integration of the two template types under Option 4c means that disclosure items cannot be directly mapped to reporting items.

Option 4c has been eliminated as it would imply that potential synergy effects aiming to reduce the reporting burden are not exploited, as institutions would not be able to directly map reported information into their disclosure obligations. Previous interactions with the industry have shown that there is strong support by institutions for having a fully integrated framework for reporting and disclosure.

Option 4a would ensure consistency, comparability and would limit the additional burden to institutions, due to its full integration and direct link to reporting. However, it would also limit the scope for shaping and selecting information to be included in the disclosure or the reporting templates. Option 4b instead would ensure comparability, consistency and limit the burden for institutions, but at the same time this option leaves more room to design disclosure templates fit for their purpose and does not confine their design to the entries of the reporting templates, and vice versa. Therefore, **Option 4b has been assessed as the preferred option**. Integration of the two templates hugely facilitates institutions' compliance with both reporting and disclosure requirements

Some of the disclosed information is of qualitative nature and hence by definition comes on top of reporting and does not fall into any of the above approaches.

Addressees of the reporting templates

Option 5a: TLAC information to be submitted to CAs, and MREL information to be submitted to both CAs and RAs

Option 5b: Both TLAC and MREL information to be submitted to both CAs and RAs

As per Article 430 CRR2, TLAC data needs to be reported to CAs whilst Article 45i BRRD2 requires MREL data to be reported to both CAs and RAs.

Given that the European MREL requirement for G-SIIs consists of the TLAC requirement plus an MREL add-on, it has been assessed as preferable to require information on both requirements to be submitted to both authorities. **Choosing option 5b** further ensures maximum alignment of information between CAs and RAs. Given that the information has to be completed by G-SIIs in any case, this does not add any additional burden to these institutions. Further, it is fully consistent with the view to have combined reporting templates for TLAC and MREL.

The provisions in the ITS on the addressee of the report are without prejudice to any arrangement between competent and resolution authorities of a specific jurisdictions designed to enable

institutions to comply with the reporting obligations by submitting data to only one of the two authorities in practice.

Frequency of submitting reporting templates

Option 6a: Stick to the minimum frequency of MREL reporting as set out in the BRRD2 and apply it also for TLAC reporting

Option 6b: Align the frequency of reporting on MREL and TLAC with supervisory reporting frequencies

Article 430 CRR2 does not specify any minimum requirements or limits as regards the frequency of reporting on TLAC. Article 45i (2) by contrast defines minimum frequencies for reporting on MREL, and Article 430 (6) CRR mandates the EBA to set frequencies which will therefore have to respect those minima. This is without prejudice to the power of competent and resolution authorities to increase the frequency of reporting further and beyond the level specified in the EBA technical standards.

The CRR requires an alignment between the reporting requirements on MREL and TLAC for those entities that are obliged to comply with both requirements, i.e. G-SIIs and material subsidiaries of third-country G-SIIs, and specifically mentions the frequency of reporting to be aligned.

Considering the legal requirements as well as practical aspects, it has been assessed as most efficient to align reporting frequencies of TLAC and MREL with the supervisory reporting frequencies, namely quarterly reporting, and **option 6b has been chosen as the preferred option**. This will allow institutions to fully integrate the new requirements into their on-going reporting work and already established cycles and process for reporting. It will also foster consistency between the information reported in the MREL/TLAC framework and the other elements of the supervisory reporting framework, in particular the own funds reporting. A quarterly reporting frequency further reflects better the fact that the MREL and TLAC requirements need to be met on a continuous basis. Whilst a quarterly reporting may imply that institutions are reporting TLAC and MREL at a higher frequency than may have been the case otherwise, this additional reporting burden is assessed to be outweighed by the benefits for authorities, such as the timely and comprehensive access to up-to-date information on institution's MREL and TLAC positions.

A set quarterly frequency of MREL and TLAC reporting ensures consistency of information received across institutions and ensures continuous and regular information flow to CAs and RAs.

Frequency for disclosure templates

Option 7a: Leave flexibility in the frequency of disclosure template dissemination

Option 7b: Set a specific frequency for institutions' disclosure templates

As for the reporting templates, certain requirements on the frequency are laid out also for disclosure templates already in the CRR2 and BRRD2. For TLAC, semi-annual disclosure is required

under CRR2 Article 433a, with key metrics to be disclosed quarterly. For MREL, at least annual disclosure is required in the BRRD2, and EBA is mandated to specify the frequency, respecting the annual minimum.

In line with the rationale provided as part of the discussion on the frequency of reporting above, it has been assessed as superior to have set frequencies in place for the disclosure on MREL and **option 7b has been chosen as the preferred option.**

The frequency of MREL disclosure for G-SIIs has been aligned with the TLAC disclosure frequency. MREL disclosure for other institutions is set at a semi-annual frequency for MREL key metrics, and at annual frequency for other information.

Set disclosure frequencies for MREL will benefit the clarity for institutions, consistency across institutions and information flow to authorities and the public. This in turn will contribute to more transparent and stable markets.

D. Conclusion

CRR2 and BRRD2 mandate EBA to develop TLAC and MREL reporting and disclosure templates and instructions. The policy choices discussed above were made with the aim of ensuring all relevant information is accessible to competent authorities, resolution authorities and market participants, whilst at the same time ensuring that the additional reporting and disclosure burden on institutions is minimised. The latter is achieved by ensuring full integration of the disclosure frameworks with the reporting framework for TLAC and MREL, and by developing common disclosure and reporting templates for TLAC and MREL.

The proposed templates at hand are a crucial step towards completing the newly established framework to make institutions safer and better able to absorb future losses. A clear, consistent and effective reporting and disclosure framework for the newly introduced concepts of TLAC and MREL, by ensuring transparency and comparability of information, is crucial for ensuring the European banking system is sound and well prepared to handle future stress.

5.2 Overview of questions for consultation

5.2.1 Questions on reporting (Annex II)

Q1. The proposed standards would measure own funds in terms of carrying amounts and eligible liabilities in terms of out-standing nominal amounts. This approach aligns the reporting and disclosure on MREL/TLAC with the reporting in the context of the ITS on Resolution Planning Reporting, where the same measurement basis is used.

In contrast, presenting both the amount of own funds and eligible liabilities as carrying amounts would potentially align the reporting more with the vast majority of prudential reporting and disclosure requirements and with the internal approaches of institutions for the monitoring of MREL/TLAC compliance on a daily basis. There is also ongoing work at the level of the BCBS to clarify the measurement of non-equity capital.

What are the advantages and challenges of presenting MREL/TLAC figures, and in particular the amount of eligible liabilities, on the basis of a) outstanding amounts or b) carrying amounts for the purposes of reporting (and disclosure)?

Q2. Are the scope and level of application of the reporting requirement and the content of the templates and the instructions M 01.00 to M 07.00 clear and appropriate?

Q3. Do you see any discrepancies between these templates and instructions and the requirements set out in the underlying regulation, i.e. do these templates and instructions reflect the substance of the TLAC requirement and MREL in a proper manner? Do you agree that the proposed reporting requirement is fit for purpose?

5.2.2 Questions on disclosure (Annex VI)

Q4. Template KM2 in the BCBS standard includes special rows to reflect the own funds amounts on an IFRS9 fully loaded basis. There is a template implemented in the EU with this information at the level of the prudential scope of consolidation. The instructions for KM2 ask institutions to explain any material difference between the own funds amounts disclosed and the IFRS 9 fully loaded amount at the resolution group level. They are also asked to explain any material difference between the IFRS 9 fully loaded amount at the resolution group level compared to the prudential group level. Do respondents agree that this is a good way to request this information, rather than adding specific rows, considering that this information will cease to be relevant once the IFRS 9 transition period is over?

Q5. Are the instructions, tables and templates clear and appropriate to the respondents?

Q6. Do you identify any discrepancies between these templates and instructions and the calculation of the requirements set out in the underlying regulation?

Q7. Do you agree that the new draft ITS fits the purpose of the underlying regulation?

5.2.3 Questions on forecast reporting (Annex VIII)

Q8. Are the scope and level of application of the reporting requirement, the content of the 'forecast' templates and the instructions clear and appropriate?

Q9. What are the particular benefits and challenges you see with regard to the reporting of the 'forecast' information?