Study on the Adequacy of the Information to be Disclosed under Article 89(1) of the Capital Requirements Directive IV

Final Report

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Abstract

This study on the "Adequacy of the Information to be Disclosed under Article 89(1) of the Capital Requirements Directive IV" prepared for the Directorate-General for Justice and Consumers (DG JUST) was carried out by Milieu and CEPS under contract No JUST/2019/MARK/FW/CIVI/0183.

The study provides an assessment of the adequacy of the indicators covered in the current country-by-country reporting (CBCR) under Article 89(1) of Capital Requirements Directive IV (CRD IV). For the study, a legal mapping, interviews with more than 60 stakeholders, a survey among credit institutions, and an assessment of the CBCR practices of 129 credit institutions were conducted.

Member States have (almost) literally transposed Article 89(1) CRD IV in the national legislation. Nevertheless, there are significant differences in the practical implementation. Many credit institutions are not reporting at all, or are not reporting the information for each of the jurisdictions separately. Activities of branches are not always covered. Similarly, the credit institutions use different definitions for turnover, number of employees, tax on profit or loss and public subsidies.

The total administrative costs are insignificant, estimated at about EUR 2 million per annum in total for the more than 4,000 credit institutions in the EU, meaning that these costs are on average EUR 450 per credit institution every year. The incremental costs are estimated to be only about a quarter or EUR 0.5 million, due to other requirements and practices, including segment reporting and reporting to tax authorities under DAC4 (Council Directive 2016/881 amending Directive 2011/16/EU, which is the EU implementation of OECD BEPS Action 13).

CBCR is further still relevant as trust in the financial sector has still not fully recovered to the levels before the 2007-09 global financial crisis.

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Table of Contents

ABSTRACT II
TABLE OF CONTENTS III
LIST OF TABLES V
LIST OF FIGURES VI
LIST OF ABBREVIATIONS VII
EXECUTIVE SUMMARY VIII
RÉSUMÉ XIII
1 INTRODUCTION 1
1.1 Background 1
1.1.1 Country-by-country reporting 1
1.1.2 Article 89(1) CRD IV 1
1.1.3 International and EU developments on CBCR 3
1.2 Objective of the study 4
1.3 Intervention logic 5
1.4 Reading Guide 8
2 METHODOLOGY 9
2.1 Desk research 9
2.2 Legal mapping 9
2.3 Interviews 10
2.3.1 Scoping interviews 10
2.3.2 Targeted stakeholder interviews at EU and national level 10
2.4 Survey 14
2.5 Administrative costs 14
2.6 Extrapolation costs 15
2.7 Sample analysis 16
2.8 Limitations 17
3 EFFECTIVENESS OF CBCR CHALLENGED BY DIFFERENCES IN IMPLEMENTATION 19
3.1 Transposition of Article 89(1) CRD by Member States 19
3.2 Scope of application 21
3.2.1 Type of institution 21
3.2.2 Covered activities 24
3.3 Means of disclosure 30
3.4 Indicators 32
3.4.1 Name(s), nature of activities and geographical location 32
3.4.2 Turnover 35
3.4.3 Number of employees on a full-time equivalent basis 39
3.4.4 Profit or loss before tax 41
3.4.5 Tax on profit or loss 43
3.4.6 Public subsidies received 46
3.4.7 Other indicators 49
3.5 Assurance 51
3.6 Impact of country-by-country reporting on trust in financial sector 52
3.7 Impact of country-by-country reporting on competitiveness 54
4 LIMITED ADMINISTRATIVE COSTS RESULTING FROM CBCR REQUIREMENT 55
4.1 Administrative and incremental costs 55

4.2 Other potential determinants of administrative and incremental costs 58
4.3 Total administrative costs for all banks 61
4.4 Conclusions.. 63
5 CBCR REMAINS RELEVANT DESPITE FADING MEMORY OF GLOBAL FINANCIAL CRISIS . 65
5.1 Trust in the financial sector 66
5.2 Tax transparency 68
5.3 Conclusions... 70
6 ARTICLE 89 HAS NOT LOST ITS "RAISON D'ÊTRE", WHEN COMPARED TO OTHER SIMILAR CBCR REQUIREMENTS 71
6.1 Internal coherence 71
6.2 External coherence 72
6.2.1 Chapter 10a "Report on income tax information" Accounting Directive .. 79
6.2.2 Article 27 Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms 81
6.2.3 EITI, Chapter 10 "Report on payments to government" Accounting Directive, and Article 6 Transparency Directive 82
6.2.4 OECD BEPS Action 13 and Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation 84
6.2.5 GRI 207 Disclosure 207-4 Country-by-country reporting.................... 86
6.2.6 Segment reporting 88
6.3 Similar disclosure requirements in three non-EEA countries 89
6.4 Conclusions... 92
7 EU LEVEL HARMONISATION IS DESIRED FOR CROSS-BORDER DATA 94
8 CONCLUSIONS AND POLICY REMARKS 96
8.1 Recommendations 98
REFERENCES 100
ANNEX I. ASSESSMENT MATRIX... 106
ANNEX II. SCOPING INTERVIEWS GUIDE 116
ANNEX III. STAKEHOLDER INTERVIEWS GUIDE 117
ANNEX IV. DESCRIPTIVE STATISTICS FOR ADMINISTRATIVE COSTS AND INCREMENTAL COSTS.. 126

List of Tables

Table 1: Completed EU stakeholder interviews 10
Table 2: Number of interviews requested per Member State (Total = 319) 11
Table 3: Number of interviews completed per Member State (Total = 47) 12
Table 4: Number of interviews requested per type of stakeholder (Total = 330) 13
Table 5: Number of interviews completed per type of stakeholder (Total = 51) 13
Table 6: Main characteristics of banks in sample 16
Table 7: Article 89(1) CRD IV and other similar CBCR requirements 73
Table 8: Descriptive statistics of costs for all survey respondents 126
Table 9: Descriptive statistics of costs for all reporting survey respondents 127
Table 10: Descriptive statistics of costs for survey respondents already reporting before CBCR 128
Table 11: Descriptive statistics of costs for survey respondents reporting since introduction of CBCR 129
Table 12: Descriptive statistics of costs for survey respondents already reporting before CBCR (excl. non-reporters) 130
Table 13: Descriptive statistics of costs for survey respondents reporting since introduction of CBCR (excl. non-reporters) 131
Table 14: Descriptive statistics of costs for survey respondents reporting at consolidated-level 132
Table 15: Descriptive statistics of costs for survey respondents not reporting 133
Table 16: Descriptive statistics of costs for survey respondents reporting in annual report 134
Table 17: Descriptive statistics of costs for survey respondents reporting in separate report 135
Table 18: Descriptive statistics of costs for survey respondents active in one country 136
Table 19: Descriptive statistics of costs for survey respondents active in two to five countries 137
Table 20: Descriptive statistics of costs for survey respondents active in more than five countries 138
Table 21: Descriptive statistics of costs for survey respondents active in third countries 139
Table 22: Descriptive statistics of costs for survey respondents not active in third countries 140
Table 23: Descriptive statistics of costs for survey respondents active in third countries (excl. non-reporters) 141
Table 24: Descriptive statistics of costs for survey respondents not active in third countries (excl. non-reporters) 142
Table 25: Descriptive statistics of costs for G-SIIs and other large institutions among the survey respondents 143
Table 26: Descriptive statistics of costs for O-SIIs among survey respondents 144
Table 27: Descriptive statistics of costs for other banks among survey respondents 145
Table 28: Descriptive statistics of costs for G-SIIs and other large institutions among the survey respondents (excl. non-reporters) 146
Table 29: Descriptive statistics of costs for O-SIIs among survey respondents (excl. non-reporters) 147
Table 30: Descriptive statistics of costs for other banks among survey respondents (excl. non-reporters) 148
Table 31: Descriptive statistics of costs for listed survey respondents 149
Table 32: Descriptive statistics of costs for non-listed survey respondents 150
Table 33: Descriptive statistics of costs for listed survey respondents (excl. non-reporters) 151
Table 34: Descriptive statistics of costs for non-listed survey respondents (excl. non-reporters) 152
Table 35: Descriptive statistics of costs for shareholder value banks among the survey respondents 153
Table 36: Descriptive statistics of costs for stakeholder value banks among survey respondents 154
Table 37: Descriptive statistics of costs for shareholder value banks among the survey respondents (excl. non-reporters) 155

Table 38: Descriptive statistics of costs for stakeholder value banks among survey respondents (excl. non-reporters) 156

List of Figures

Figure 1: Intervention Logic 7
Figure 2: Coverage of EEA and non-EEA branches in country-by-country reports [share of banks] 26
Figure 3: Means of disclosure (share of banks) 31
Figure 4: Indication of entity name in country-by-country report [share of banks] 33
Figure 5: Indication of nature of activities in country-by-country report [share of banks] 33
Figure 6: Definition of country used in country-by-country report [share of banks] 34
Figure 7: Country specification in country-by-country report [share of banks] 35
Figure 8: Type of revenues used in country-by-country report [share of banks] 37
Figure 9: Reconciliation of turnover in country-by-country report [share of banks] 38
Figure 10: Treatment of intra-group transactions in country-by-country report [share of banks] 38
Figure 11: Indication of number of employees in country-by-country report [share of banks] 40
Figure 12: Reconciliation of number of employees in country-by-country report [share of banks] 40
Figure 13: Indication of profit or loss before tax in country-by-country report [share of banks] 42
Figure 14: Reconciliation of profit or loss before tax in country-by-country report [share of banks] 42
Figure 15: Indication of tax on profit or loss in country-by-country report [share of banks] 45
Figure 16: Reconciliation of tax on profit or loss in country-by-country report [share of banks] 45
Figure 17: Indication of public subsidies in country-by-country report [share of banks] 48
Figure 18: Other indicators in country-by-country report [share of banks] 49
Figure 19: Occurrence of other types of indicators in country-by-country report [share of banks] 50
Figure 20: Level of assurance on country-by-country report [share of banks] 52
Figure 21: Administrative and incremental costs (EUR) 56
Figure 22: Administrative and incremental costs by size (EUR) 57
Figure 23: Administrative and incremental costs by size (excl. non-reporters) (EUR) 57
Figure 24: Administrative and incremental costs by number of countries (EUR) 58
Figure 25: Administrative and incremental costs according to whether the company started reporting before or since the CBCR was introduced (EUR) 59
Figure 26: Administrative and incremental costs by location of report (EUR) 60
Figure 27: Administrative and incremental costs by activity in third countries (EUR) 60
Figure 28: Total administrative and incremental costs (EUR million) 62
Figure 29: Total administrative and incremental costs (share of turnover) 62
Figure 30: Total administrative and incremental costs (share of operating costs) 63
Figure 31: Total administrative and incremental costs (share of total assets) 63
Figure 32: Intervention logic 120

List of Abbreviations

ADI	Authorised Deposit-taking Institutions
BAU	Business-as-usual
BEPS	Base erosion and profit shifting
BRIS	Business Registers Interconnection System
CBCR	Country-by-country reporting
CBI	Confederation of British Industry
CODM	chief operating decision maker
CRD IV	Capital Requirements Directive 2013/36/EU
CRD V	Directive (EU) 2019/878
CRR	Regulation (EU) No 575/2013
DAC1	Directive on Administrative Cooperation 2011/16/EU
DAC4	Council Directive 2016/881 amending Directive 2011/16/EU
DG JUST	Directorate-General for Justice and Consumers
ECB	European Central Bank
EBA	European Banking Authority
EEA	European Economic Area
EITI	Extractive Industries Transparency Initiative
ETR	Effective tax rate
ESG	Environmental, Social, and Governance
EU	European Union
FTE	Full-Time Equivalent
G-SIBs	Global Systemically Important Banks
G-SIIs	Global Systematically Important Institutions
GDPR	General Data Protection Regulation
GRI	Global Reporting Initiative
HMRC	HM Revenue and Customs
IAS	International Accounting Standard
IFD	Investment Firms Directive (EU) 2019/2034
IFR	Investment Firms Regulation (EU) 2019/2033
IFRS	International Financial Reporting Standards
IO	Information obligation
MNE	Multinational enterprises
MiFID II	Markets in Financial Instruments Directive 2014/65/EU
MS	Member State(s)
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
O-SIIs	Other Systemically Important Institutions
Q&A	Questions & Answers
SCM	Standard Costs Model
SEC	Securities and Exchange Commission
WTO	World Trade Organization

Executive Summary

Since 2014, credit institutions and investment firms subject to the Capital Requirements Regulation (EU) No 575/2013 (CRR) and Directive 2013/36/EU (CRD) are required to publish once a year specified information on a country-by-country basis. This requirement was included under Article 89(1) CRD IV at the proposal of the European Parliament, which aimed to enhance trust in the financial sector through more transparency regarding their activities.

Under the existing requirement, country-by-country reporting (CBCR) includes six indicators:

1. name(s), nature of activities and geographical location;
2. turnover;
3. number of employees on a full-time equivalent (FTE) basis;
4. profit or loss before tax;
5. tax on profit or loss; and
6. public subsidies received.

These indicators were chosen, on the one hand, to provide insights into fair corporate taxation and public financial support and, on the other hand, to potentially expand their applicability to other non-financial companies.

Objective of the study

The aim of this study is to assess the adequacy of the indicators covered in the current Article 89(1) CRD IV. With this assessment, the study contributes to the requirement under Article 89(6) CRD V for the European Commission to review the CBCR requirements.

Methodology

The assessment is based on a combination of desk research, legal mapping, interviews, surveys, sample analysis, and administrative cost assessment.

The legal mapping covered the transposition of the CBCR requirements in all 27 EU Member States and similar requirements in three third countries (i.e. Australia, UK and US).

Scoping, national stakeholder and EU-level interviews were conducted with more than 60 stakeholders, including financial institutions, assurers, NGOs, consumer organisations, supervisors, and policymakers. The interviews covered the effectiveness, efficiency, relevance, coherence, and EU added value of the current CBCR requirements.

The survey among credit institutions formed the basis for the administrative cost assessment. In total, 22 responses (of which 13 prepare a country-by-country report) were used for the estimation of the administrative costs. These were extrapolated for all EU credit institutions using the lists of credit institutions obtained from the European Central Bank and ownership information from Orbis Europe.

A sample of country-by-country reports was assessed to obtain information on the current implementation of the requirements laid down in Article 89(1) CRD IV. The sample analysis covered 129 credit institutions (of which 94 were preparing a country-by-country report), representing more than 70% of the European banking activity.

Limitations in disclosed information in practice

The CBCR requirements were (almost) literally transposed in the national legislation of all Member States. The requirements are generally not further specified in the legislation, supervisory standards and guidelines. The European Banking Authority provided some clarifications through Q&A responses, which are not legally binding. In practice, there are large differences in implementation by credit institutions[1]. The requirements leave room for interpretation in the absence of a standard template and detailed definitions.

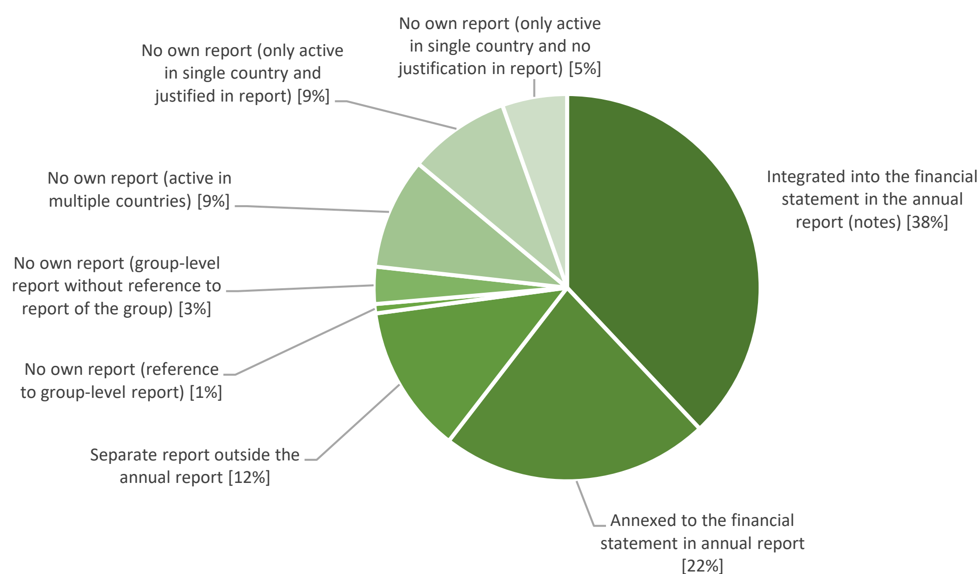
Reporting institutions

There seems to be an important share of credit institutions not reporting the CBCR information (about 27% of the credit institutions in the sample). This concerns primarily credit institutions active in one country, but there are also credit institutions active in multiple countries non-reporting.

All credit institutions are obliged to prepare a country-by-country report, but for those active in just one country the standard financial statement already provides most of the requirements. The only exceptions are public subsidies received and number of employees; the latter is provided, but not always expressed in FTE.

Moreover, some of the credit institutions active in multiple countries report only at group level, which is not in line with the legal requirement that prescribes to provide a country-by-country report for each institution. Although not fully in line with the current provision, the reporting at group level would be more efficient and similarly effective as the country-by-country information will be disclosed at the most pertinent corporate level.

Figure: Means of disclosure (share of banks in sample)



Note: The aggregate shares of banks presented between parenthesis on the labels can deviate from 100% due to rounding.
Source: Authors' elaboration (2021) based on sample analysis

[1] The implementation by the investment firms was not assessed separately as they will either have to obtain a credit institution licence or become subject to the Investment Firm Regulation and Investment Firm Directive. Class 1B investment firms, subject to CRR/CRD, constitute only a small fraction of reporting institutions.

The country-by-country report is sometimes difficult to retrieve. The CBCR information of most institutions is included in the annual report, but there is a significant share of banks that report the information separately. Furthermore, the annual reports were not always available on the corporate websites of the credit institutions concerned.

Country-by-country disclosure

A significant share of the credit institutions active in multiple jurisdictions is not reporting the information for each of these jurisdictions separately.

Some of the credit institutions with branches report the activities of these branches in the home country rather than the host country in which the branch is active. Indeed, a compelling share of the branches is not reported in the country of activity.

Furthermore, a minority of the credit institutions are disclosing information by sovereignty rather than country. This is primarily relevant for offshore financial centres and tax havens that are part of sovereign states. For example, the activities in the Cayman Islands are considered part of the UK activities.

Additionally, a significant share of the credit institutions is presenting some of the information for a group of countries. In most cases, this concerns insignificant activities, but in some instances also activities in offshore financial centres and tax havens. For example, in one country-by-country report, all activities of the credit institution in North American countries where it doesn’t have subsidiaries were reported as "Other".

Indicators

In some of the country-by-country reports there is some information missing or only included through references to other parts of the annual report. This especially concerns information on the names of the entities and activities in the various countries.

There is also a significant share of credit institutions (about 33%) that are including additional information in their country-by-country reports. This primarily consists of additional information on some of the indicators such as geographical information, additional income statement and tax information, as well as balance sheet indicators.

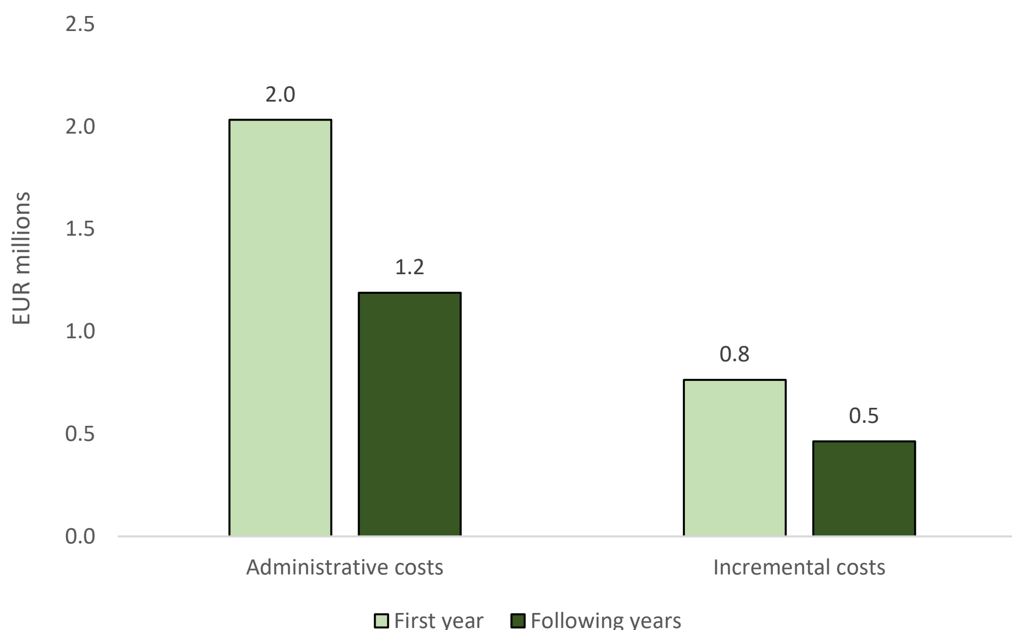
Different definitions are used for a number of indicators, which reduces the comparability of information across credit institutions. The comparability is essential for civil society organisations to assess the base erosion and profit shifting of credit institutions and their clients. There are inconsistencies in the reporting of the indicators, including activities (large range of different descriptions), turnover (e.g. net versus gross revenues, revenues from all operations or continued operations), number of employees in FTE (average versus end of year), tax on profit (e.g. accrued versus paid tax) and public subsidies (e.g. including or excluding State aid). Moreover, it is not always obvious which definition was used and how the intra-group effects are treated.

Administrative costs

The administrative costs involved in the preparation of the country-by-country reports are insignificant compared to the size of the credit institutions: the administrative costs range from zero to EUR 20,000 per credit institution per annum. Looking at the differentiating factors, the costs for reporters are higher for large institutions than for small institutions, for institutions active in multiple countries than for those active in a single country, and for separate reports than for country-by-country reports integrated into the annual report. The costs in the first year are much higher than the following years.

There are currently more than 4,600 credit institutions subject to CRD, of which only about 600 or 13% are active in two or more countries through branches and/or subsidiaries. Based on the median administrative costs, the preparation of the country-by-country reports is estimated to cost about EUR 2 million per annum in total in the first year of reporting and EUR 1.2 million per annum in the years thereafter. This is less than 0.0000000001% of the total operating costs and turnover of all EU credit institutions.

Figure: Total administrative and incremental costs (EUR million)



Source: Authors' elaboration (2021) based on survey and data analyses

Moreover, in the absence of the CBCR requirement, these credit institutions would have incurred most of the administrative costs already. Indeed, many credit institutions are also reporting some or all indicators at country level for their business reporting, reporting to tax authorities under DAC4 (i.e. EU implementation of BEPS Action 13) and/or segment reporting. In fact, some banks have combined the segment reporting and CBCR, which is possible when the operating segments of an institution are arranged along country borderlines. Moreover, the incremental costs of large institutions are relatively lower as the legal CBCR requirements are mostly only applicable to larger institutions. Considering the overlap with other practices and requirements, the incremental costs for country-by-country reports are estimated at EUR 0.5 million per annum after the first reporting year.

The administrative costs do not include the assurance costs, which are often not specified by the auditor of the country-by-country reports and therefore difficult to estimate. Potentially these are of a similar or even larger magnitude than the administrative costs.

Effectiveness and relevance

Overall, the limitation in the comparability of the information disclosed in practice, reduces the effectiveness of the current CBCR requirements in enhancing trust in the financial sector and contributing to better adherence to tax rules.

Trust in the financial sector has increased in recent years after a steep drop in response to the 2007-12 global financial and Eurozone debt crises. The enhanced transparency in combination with strengthened financial buffers, and a legislative and supervisory framework contributed to the increase in trust. The evidence on the reduction of corporate profit-shifting of banks is not conclusive.

Yet trust in the financial sector is still not at pre-crisis levels. Restoring trust in the financial sector therefore remains relevant. In addition, CBCR remains relevant for the public scrutiny of base erosion and profit shifting.

Recommendations

Based on the above assessment, the study draws four key recommendations, taking into account the politically agreed public CBCR for MNEs Directive and CBCR reporting for large MNEs under DAC4, and considering various challenges in the implementation of CBCR under CRD IV.

First, it would be preferable to refocus the CBCR requirement on those CRR/CRD institutions (including branches from non-EU institutions) which are active internationally and ask them to report at ultimate parent company level. This would avoid double reporting and reporting of limited added value by institutions active in just a single country.

Second, the information on the indicators may be provided for all establishments by Member States or tax jurisdictions when outside the EU. The establishment would have to cover both subsidiaries and branches to ensure that their activities are attributed to the tax jurisdiction of activity.

Third, the indicators in the country-by-country report are preferably defined in line with the accounting requirements, which contributes to comparability and reconciliation. The indicators would have to be calculated for both continued as well as discontinued activities to cover all operations. Moreover, the indicators may be revised as follows:

- "Turnover" could be revised to "net operating revenues" (net interest income, net commission and fee income, net investment income and other operating income) in line with the common practice in bank financial reporting;
- "Number of employees on full-time equivalent (FTE) basis" could remain the same for comparability or changed to "number of employees" (headcount or FTE) to ensure consistency with the accounting requirements;
- "Profit or loss before tax" could be revised to "profit or loss before income tax" to avoid other taxes being considered and allow for the calculation of the effective tax rate;
- "Tax on profit or loss" could be split into two tax indicators "income tax accrued (current year)" and "income tax paid", to obtain a full understanding of the corporate income tax charged and paid;
- "Public subsidies received" could be defined to ensure that the subsidies include subsidies, grants and State aid.

Fourth, it is recommended to require institutions to include CBCR in the annual report rather than a separate report as some institutions currently do in addition to publishing the annual report on their corporate website in line with the existing accounting requirements. The inclusion in a public central repository in a machine-readable format could be explored to ease the analysis of the country-by-country information.

Résumé

Depuis 2014, les établissements de crédit et les entreprises d'investissement soumis au Règlement (UE) n° 575/2013 sur les exigences de fonds propres (CRR) et à la Directive 2013/36/UE (CRD) sont tenus de publier une fois par an certaines informations pays par pays. Cette obligation prévue à l'article 89(1) CRD IV, introduite sur proposition du Parlement européen, vise à renforcer la confiance dans le secteur financier grâce à une plus grande transparence de leurs activités.

Aux termes de cet article, la déclaration pays par pays comprend six indicateurs :

1. la dénomination, la nature des activités et la localisation géographique;
2. le chiffre d'affaires;
3. le nombre de salariés sur une base équivalent temps plein (ETP);
4. le résultat d'exploitation avant impôt;
5. les impôts payés sur le résultat; et
6. les subventions publiques reçues.

Ces indicateurs ont été choisis pour donner un aperçu de la fiscalité équitable des entreprises sujettes au cadre bancaire européen et de l'importance du soutien financier sur fonds public au secteur bancaire. Pionnier en la matière, cet article avait également pour vocation d'éventuellement s'appliquer aux sociétés non financières.

Objectif de l'étude

L'objectif de cette étude est d'évaluer l'adéquation des indicateurs prévus par l'actuel article 89(1) CRD IV. Par cette évaluation, l'étude satisfait à l'article 89(6) CRD V imposant à la Commission européenne de procéder à une appréciation des dispositions de l'article 89(1) CRD IV.

Méthodologie

L'étude repose sur une combinaison de recherches documentaires et juridiques, d'entretiens, d'enquêtes, d'analyse d'échantillons et d'évaluation des coûts administratifs.

L'analyse du cadre juridique a porté sur la transposition des dispositions de l'article 89 CRD IV dans les 27 États membres de l'UE ainsi que sur des obligations similaires dans trois pays tiers (à savoir l'Australie, le Royaume-Uni et les États-Unis).

Des entretiens de cadrage au niveau européen ainsi que des entretiens avec les parties prenantes au niveau national ont été menés avec plus de 60 interlocuteurs, dont des institutions financières, des comptables, des ONG, des organisations de consommateurs, des superviseurs et des décideurs politiques. Les entretiens menés ont porté sur l'efficacité, l'efficience, la pertinence, la cohérence et la valeur ajoutée européenne de l'actuel article 89(1) CRD IV.

L'enquête auprès des établissements de crédit a servi de base à l'évaluation des coûts administratifs liés à la déclaration pays par pays. Au total, 22 réponses (dont 13 provenant d'établissements préparant une déclaration pays par pays) ont été utilisées pour l'estimation des coûts administratifs. Ceux-ci ont été extrapolés pour tous les établissements de crédit de l'UE à l'aide des listes d'établissements de crédit obtenues auprès de la Banque centrale européenne et des informations fournies par la base de données Orbis Europe.

Un échantillon de déclarations pays par pays a été évalué pour obtenir des informations sur la mise en œuvre concrète des exigences de l'article 89(1) CRD IV. L'analyse de

l'échantillon a porté sur 129 établissements de crédit (dont 94 préparant une déclaration pays par pays), représentant plus de 70% de l'activité bancaire européenne.

Limites de l'information divulguée dans la pratique

Les dispositions de l'article 89(1) CRD IV ont été dans l'ensemble littéralement transposées dans la législation de tous les États membres. Au niveau national, les dispositions transposant l'article 89(1) CRD IV ne contiennent généralement pas de précisions supplémentaires. Les normes, les lignes directrices de surveillance et les orientations ne semblent pas non plus préciser l'obligation d'information prévue à l'article 89(1) CRD IV. L'Autorité bancaire européenne (ABE) a fourni quelques clarifications par le biais de questions et réponses, qui ne sont néanmoins pas juridiquement contraignantes. En pratique cependant, il existe de grandes différences dans la mise en œuvre de l'article 89(1) CRD IV par les établissements de crédit[2]. En effet, les dispositions de l'article 89(1) CRD IV laissent place à une certaine interprétation en l'absence de définitions détaillées et d'un document type qui servirait à la divulgation des différentes informations.

Institutions déclarantes

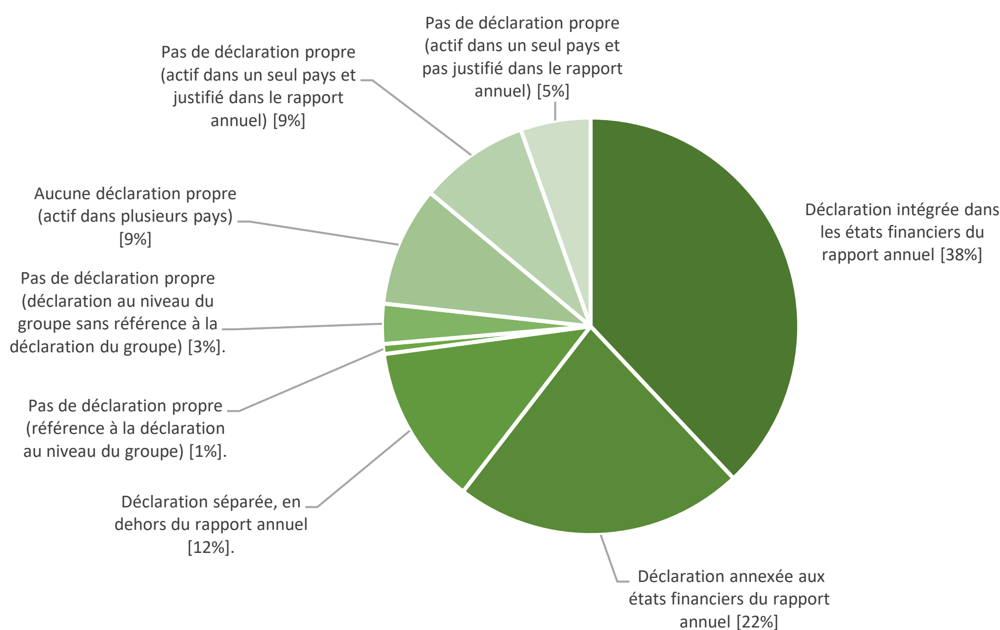
Il semble y avoir une part importante d'établissements de crédit qui ne satisfait pas à l'obligation d'information pays par pays (environ 27% des établissements de crédit de l'échantillon ne déclarent pas). Cela concerne principalement les établissements de crédit actifs dans un seul pays, mais également dans une moindre mesure, les établissements de crédit actifs dans plusieurs d'entre eux.

Tous les établissements de crédit sont tenus de préparer une déclaration pays par pays, mais pour ceux qui ne sont actifs que dans un seul pays, leurs états financiers fournissent déjà la plupart des informations requises. Les seules exceptions concernent les subventions publiques reçues et le nombre de salariés. Ce dernier élément est toutefois indiqué, mais n'est pas toujours exprimé en ETP.

En outre, certains des établissements de crédit actifs dans plusieurs pays ne déclarent ces informations que pour le groupe ce qui n'est pas conforme à l'exigence légale qui prescrit de fournir une déclaration pays par pays pour chaque établissement. Bien que cela ne soit pas strictement conforme, la déclaration au niveau du groupe est plus efficiente et toute aussi efficace, car les informations pays par pays sont divulguées au niveau le plus pertinent de l'entreprise.

[2] La mise en œuvre par les entreprises d'investissement n'a pas été évaluée séparément car elles devront soit obtenir un agrément d'établissement de crédit, soit se soumettre au Règlement et à la Directive sur les entreprises d'investissement. Les entreprises d'investissement de classe 1B, soumises au CRR/CRD, ne constituent qu'une petite fraction des établissements déclarants.

Graphique : Moyens de divulgation (part des banques dans l'échantillon)



Note : Les parts agrégées des banques présentées entre parenthèses peuvent s'écarter de 100% en raison des arrondis.
Source : Élaboration des auteurs (2021) basée sur l'analyse de l'échantillon.

La déclaration pays par pays est parfois difficile à identifier/trouver parmi les documents d'information que les entreprises sujettes à l'article 89 doivent publier. En effet, les informations pays par pays de la plupart des établissements de crédit sont incluses dans leur rapport annuel, mais une part importante de ces derniers communique ces informations séparément. De plus, les rapports annuels ne sont pas toujours disponibles sur les sites internet des établissements de crédit concernés.

<u>Divulgation pays par pays</u>

De nombreux établissements de crédit actifs dans plusieurs juridictions ne communiquent pas les informations pour chacune desdites juridictions de façon séparée.

Certains des établissements de crédit ayant des succursales déclarent les activités de ces succursales dans le pays d'origine plutôt que dans le pays d'accueil dans lequel la succursale est active. En effet, une part importante des succursales n'est pas déclarée dans le pays d'activité.

En outre, une minorité d'établissements de crédit divulguent les informations par pays sans préciser si l'activité s'effectue sur un territoire d'outre-mer dudit pays. Cela concerne principalement les centres *offshore* et les paradis fiscaux qui font partie d'États souverains. Par exemple, les activités dans les îles Caïmans sont considérées comme faisant partie des activités au Royaume-Uni.

Enfin, une part importante des établissements de crédit présente une partie des informations pour un groupe de pays donné. Dans la plupart des cas, il s'agit d'activités insignifiantes, mais dans certains cas, il s'agit d'activités dans des centres *offshore* et des paradis fiscaux. Par exemple, dans une déclaration pays par pays de l'échantillon, toutes les activités de l'établissement de crédit en Amérique du Nord où il n'avait pas de filiales ont été déclarées sous la rubrique "Autres".

Indicateurs

Dans certaines déclarations pays par pays, des informations sont manquantes ou ne sont incluses que par le biais de références à des informations présentées dans le rapport annuel de l'établissement de crédit. Il s'agit notamment d'informations sur les dénominations des entités et sur la nature des activités dans les différents pays.

Il y a également une part importante d'établissements de crédit (environ 33%) qui incluent des informations supplémentaires dans leurs déclarations pays par pays. Il s'agit principalement d'informations relatives à certains indicateurs de l'article 89(1) CRD IV, par exemple des informations géographiques, des informations sur le compte de résultat et la fiscalité, ainsi que sur le bilan.

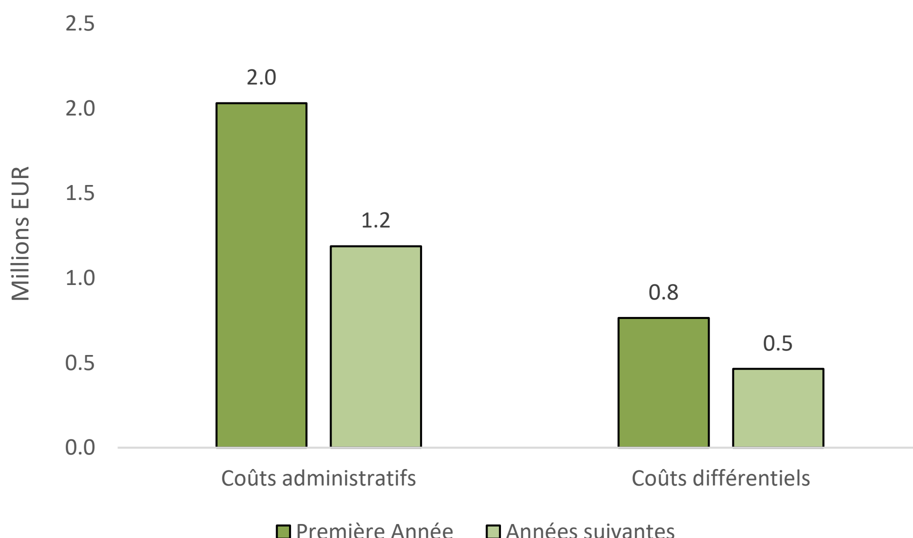
Des définitions différentes sont utilisées pour certains indicateurs, ce qui limite la comparabilité des informations divulguées par les établissements de crédit. Cette comparabilité est essentielle pour que les organisations de la société civile puissent évaluer l'érosion de la base d'imposition et le transfert de bénéfices des établissements de crédit. Il existe également des incohérences dans la présentation des indicateurs, notamment en ce qui concerne les activités (large éventail de descriptions différentes), le chiffre d'affaires (par exemple, revenus nets ou bruts, revenus de toutes les opérations ou des opérations continues), le nombre de salariés en ETP (effectif moyen annuel ou effectif en fin d'année), l'impôt sur le résultat (par exemple, impôt couru ou impôt payé) et les subventions publiques (par exemple, aides d'État incluses ou exclues). En outre, il n'est pas toujours aisé de savoir quelle définition a été utilisée et comment les transactions intra-groupes sont traitées.

Coûts administratifs

Les coûts administratifs liés à la préparation des déclarations pays par pays sont très faibles au regard de la taille des établissements de crédit. En effet, les coûts administratifs vont de zéro à 20 000 euros par établissement de crédit par an. Les coûts sont plus élevés pour les grands établissements que pour les petits établissements, pour les établissements actifs dans plusieurs pays que pour ceux actifs dans un seul pays, et pour les établissements qui préparent une déclaration pays par pays séparée que pour ceux qui établissent une déclaration pays par pays intégrée à leur rapport annuel. Il convient également de souligner que les coûts supportés la première année sont bien plus élevés que ceux des années suivantes.

Il y a actuellement plus de 4,600 établissements de crédit soumis à la Directive CRD, dont seulement 600 environ (soit 13 %) sont actifs dans deux pays ou plus par le biais de succursales et/ou de filiales. Sur la base des coûts administratifs médians, la préparation des déclarations pays par pays a coûté environ 2 millions d'euros par an au total au cours de la première année de déclaration et 1.2 millions d'euros par an les années suivantes. Cela représente moins de 0,0000000001% du total des coûts d'exploitation et du chiffre d'affaires de tous les établissements de crédit de l'UE.

Graphique : Total des coûts administratifs et différentiels (millions d'euros)



Source : Élaboration des auteurs (2021) basée sur l'enquête et les analyses de données réalisées.

Il est à noter que même en l'absence de cette obligation d'information pays par pays, lesdits établissements de crédit auraient déjà supporté la plupart des coûts administratifs liés à la mise en œuvre de l'article 89 CRD IV. En effet, de nombreux établissements de crédit déclarent au niveau national une partie ou la totalité des indicateurs décrits dans l'article susmentioné dans le cadre de leurs rapports d'activité, de la déclaration aux autorités fiscales au titre de la Directive 2011/16/UE relative à la coopération entre les administrations fiscales des pays de l'Union européenne (DAC4) (la mise en œuvre au niveau de l'UE de BEPS Action 13 de l'OCDE) et/ou des obligations d'information sectorielle. Certains établissements de crédit ont combiné l'information sectorielle et l'information pays par pays, ce qui est possible lorsque le périmètre opérationnel d'un établissement de crédit recouvre les frontières nationales. Par ailleurs, les coûts différentiels des grands établissements sont relativement plus faibles, car les exigences légales en matière d'information pays par pays ne sont généralement applicables qu'aux grands établissements. Compte tenu du chevauchement avec d'autres exigences, les coûts liés aux déclarations pays par pays sont estimés à 0.5 million d'euros par an après la première année de déclaration.

Il convient également de souligner que les coûts administratifs ne comprennent pas les coûts liés à la comptabilité, qui ne sont souvent pas spécifiés par le contrôleur légal des déclarations pays par pays et sont donc difficiles à estimer. Il est possible que ces coûts soient d'une ampleur similaire, voire supérieure, à celle des coûts administratifs.

Efficacité et pertinence

Dans l'ensemble, la comparabilité limitée des informations qui sont divulguées réduit l'efficacité de l'article 89(1) CRD IV en ce qui concerne la confiance dans le secteur financier et la contribution à un meilleur respect de la législation fiscale.

La confiance dans le secteur financier s'est accrue ces dernières années après une chute brutale à la suite des crises financières et de la crise de la dette de la zone euro entre 2007 et 2012. L'amélioration de la transparence, couplée au renforcement des coussins prudentiels et à la mise en place d'un cadre législatif et de surveillance renforcé, a contribué à rétablir dans une certaine mesure la confiance. Cependant, il ne peut pas être conclu que les pratiques de transfert des bénéfices des établissements de crédit ont diminué.

Malgré cette amélioration, la confiance dans le secteur financier n'a toujours pas atteint le niveau d'avant la crise et la question de son rétablissement reste donc pertinente.

Les obligations d'information pays par pays sont également nécessaires pour permettre l'information du public sur l'érosion de la base d'imposition et le transfert de bénéfices.

Recommandations

Sur la base de cette analyse, l'étude formule quatre recommandations clés. Ces dernières prennent en compte l'accord politique sur la proposition de directive visant à accroître la transparence fiscale pays par pays pour les entreprises multinationales (*public CBCR*), la déclaration pays par pays pour les entreprises multinationales prévue par DAC4, ainsi que des différents défis dans la mise en œuvre de l'article 89(1) CRD IV.

Premièrement, il serait préférable de recentrer l'obligation d'information pays par pays sur les institutions CRR/CRD (y compris les succursales d'institutions non européennes) qui sont actives au niveau international et de leur demander de faire des déclarations au niveau de leur société mère. Cela permettrait d'éviter les doubles déclarations ainsi que les déclarations à faible valeur ajoutée effectuées par des établissements actifs dans un seul pays.

Deuxièmement, les établissements devraient fournir les informations requises par État membre ou par juridiction fiscale lorsqu'ils se trouvent en dehors de l'UE. Les établissements devraient couvrir à la fois leurs filiales et leurs succursales afin de garantir que leurs activités sont attribuées à la juridiction fiscale du pays d'activité.

Troisièmement, les indicateurs de la déclaration pays par pays devraient de préférence être définis au regard des exigences comptables, ce qui permettrait une meilleure comparabilité. Les indicateurs devraient être calculés à la fois pour les activités poursuivies et pour les activités abandonnées afin de couvrir toutes les opérations. Les indicateurs pourraient ainsi être révisés comme suit :

- Le "chiffre d'affaires" pourrait être révisé en "produits d'exploitation nets" (produits d'intérêts nets, produits de commissions et de frais nets, produits d'investissement nets et autres produits d'exploitation), conformément à la pratique courante en matière d'information financière des établissements de crédit;
- Le "nombre de salariés en équivalent temps plein (ETP)" pourrait rester le même pour des raisons de comparabilité ou être changé en "nombre de salariés" (effectif ou ETP) pour assurer la cohérence avec les exigences comptables;
- Le "résultat d'exploitation avant impôt" pourrait être révisé en "résultat d'exploitation avant impôt sur le revenu" afin d'éviter que d'autres impôts soient pris en compte et permettre ainsi le calcul du taux d'imposition effectif;
- L'"impôt payé sur le résultat" pourrait être scindé en deux indicateurs fiscaux "impôt sur le revenu couru (année en cours)" et "impôt sur le revenu payé", afin d'obtenir une vision complète de l'impôt sur le revenu des sociétés prélevé et payé;
- "Les subventions publiques reçues" pourraient être définies de manière à garantir que les subventions comprennent les subventions, les aides financières et les aides d'État.

Quatrièmement, il est recommandé d'exiger des institutions qu'elles incluent leur déclaration pays par pays dans leur rapport annuel plutôt que dans un rapport séparé, comme le font actuellement certaines institutions, en plus de la publication du rapport annuel sur le

site internet de l’institution, conformément aux exigences comptables en vigueur. L'inclusion dans un rapport central et public dans un format électronique lisible par machine pourrait être explorée afin de faciliter l'analyse des informations pays par pays.

1 Introduction

1.1 Background

1.1.1 Country-by-country reporting

Country-by-country reporting (**CBCR**), where certain information needs to be reported upon for each country a particular company operates in, has served several purposes over time.

CBCR relates to the way information is shared, namely on a country-by-country basis (i.e. aggregate information with regard to each jurisdiction the entity operates in). Whereas **public CBCR** means that there is a disclosure requirement, i.e. that the information shared on a country-by-country basis is publicly available, **non-public CBCR** means that there is only a reporting requirement, i.e. that the information is kept confidential. In the case of non-public CBCR, the information is sent to tax authorities and is not publicly available. While non-public CBCR sent to tax administrations assists the tax authorities for risk assessment purposes, public CBCR serves the overarching purpose of enabling public scrutiny of whether tax is paid where profits are produced.

By contrast to CBCR, non-CBCR disclosure requirements (as laid down in e.g. the Non-Financial Reporting Directive 2014/95/EU) relate to the public sharing of financial and non-financial information, but this single set of information is generally provided at a global level, not for every country the entity operates in.

1.1.2 Article 89(1) CRD IV

In May 2012, the European Parliament proposed the inclusion in Directive 2013/36/EU[3] (CRD IV) of a requirement for credit institutions and investment firms[4] ("institutions")[5] subject to the Capital Requirements Regulation (EU) No 575/2013[6] (CRR) and Directive to publish annually key specified (mostly financial) information on a country-by-country basis[7]. The reasoning was that banks and financial institutions were at the origin of the great financial crisis and the taxpayers were the ones bearing the costs. This reduced trust in the financial sector and raised suspicion about whether or not they would be paying a fair contribution in the form of tax. With public pressure mounting, CBCR was implemented as a tool for restoring trust in the financial system. Following the agreement of the co-legislators, this requirement became Article 89 of CRD IV. Recital (52) of CRD IV recalls that *"Increased transparency regarding the activities of institutions, and in particular regarding profits made, taxes paid, and subsidies received, is essential for regaining the trust of citizens of the Union in the financial sector. Mandatory reporting in that area can therefore*

[3] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013, p. 338–436.

[4] Both terms are defined in points (1) and (2) of Article 4(1) of CRR, according to Article 3(1)-(2) of CRD IV.

[5] Article 4(1)(3) CRR: «'institution' means a credit institution or an investment firm ».

[6] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.6.2013, p. 1–337.

[7] See inclusion of Article 86a in: European Parliament (2012), Report on the proposal for a directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (COM(2011)0453 – C7-0210/2011 – 2011/0203(COD)), available at: https://www.europarl.europa.eu/doceo/document/A-7-2012-0170_EN.pdf

be seen as an important element of the corporate responsibility of institutions towards stakeholders and society".

On 26 June 2013, the new regulatory and capital requirement package for banks and investment firms was adopted. The package consists of CRR and CRD IV which incorporate into EU law the new global standards on bank capital issued by Basel III. CRR lays down the detailed prudential requirements that credit institutions (i.e. banks) and investment firms need to respect, while CRD IV governs access to the activity of institutions and includes tools for their prudential supervision by competent authorities. The CRR/CRD package therefore requires credit institutions and investment firms to be much more transparent about how they manage themselves and their risks.

The disclosure requirements laid down in **Article 89(1) of Directive 2013/36/EU** reflect the EU's shift towards increased (tax) transparency through public CBCR. Under Article 89 CRD IV, institutions covered by the Capital Requirements Regulation and Directive are required to disclose annually, specifying, by Member State and by third country in which they have an establishment, the following information on a consolidated basis for the financial year:

a) Name, nature of activities, and geographical location;
b) Turnover;
c) Number of employees on a full-time equivalent basis;
d) Profit or loss before tax;
e) Tax on profit or loss; and
f) Public subsidies received.

Paragraph 4 of Article 89 CRD IV adds that this information "shall be audited in accordance with Directive 2006/43/EC and shall be published, where possible, as an annex to the annual financial statements or, where applicable, to the consolidated financial statements of the institution concerned".

In 2014, the Commission conducted a general assessment of the potential negative economic consequences of the public disclosure of such information, including the impact on competitiveness, investment and credit availability and the stability of the financial system, and reported on it to the European Parliament and to the Council. The resulting report[8] concluded that the disclosure requirements under Article 89(1) CRD IV were unlikely to have a significant negative economic impact, including on competitiveness, investment, credit availability or the stability of the financial system. In addition, the report considered that Article 89(1) has some positive impact on the transparency and accountability of, and on the public confidence in, the financial services sector in the EU, which was exactly the intent of this specific Directive provision. Nevertheless, the related study prepared by an external contractor suggests that Article 89(1) CRD IV suffers from implementation and interpretation issues and that addressing these issues could improve the impact of this provision[9].

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[8] European Commission (2014), Report from the Commission to the European Parliament and the Council, General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013, available at: https://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0676&from=EN

[9] See page 10 of the Study prepared by PwC for European Commission DG Market following the contract 2014/S 102-177729, General assessment of potential economic consequences of country-by-country reporting under CRD IV, Final report, September 2014, available at: https://www.pwc.com/gx/en/eu-institutions-services/pdf/pwc-cbcr-report-en.pdf. In short, the following key areas of uncertainty have been identified (see page 100):

- Uncertainty as to which entities within a group are within the scope of Article 89;

1.1.3 International and EU developments on CBCR

Article 89(1) CRD IV is part of a broader trend towards corporate transparency and accountability and several reporting requirements developed at EU and international level are similar to or comparable with this article.

Originally, a key forerunner was the **Extractive Industries Transparency Initiative (EITI)**[10], which aimed to improve transparency and accountability in terms of how natural resource wealth is generated and used. This initiative was voluntary and involved disclosure to the public. A similar, but mandatory, regime was introduced in the US' Dodd-Frank Act and in the EU's rules for large extractive and logging industry enterprises. In particular, the **Accounting Directive 2013/34/EU**[11] and the **Transparency Directive 2013/50/EU**[12] provide mandatory disclosure requirements on a country-by-country basis for the extractive industry. Under these Directives, listed as well as large non-listed companies active in the oil, gas, mining or logging sectors have specific reporting obligations and must report all payments to governments, broken down by country. They require that extractive sector companies use this system to report on the taxes, royalties, and bonuses that they pay worldwide. These reporting obligations apply project-by-project (i.e. if these payments have been attributed to a specific project, they must be reported for that specific project).

Public CBCR rules were later introduced in other industries, notably in the financial sector, with the aim of, inter alia, enhancing investor protection[13] and/or regaining the trust of EU citizens in this sector. The latest wave of CBCR initiatives aims to influence corporate tax behaviour by discouraging aggressive tax planning and by ensuring fairness in the taxation

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- Lack of coherence between the interpretation of terms used in CRD IV and terms used in financial accounting;
- Use of different methods of consolidation;
- Member States having different views on whether tax on profit or loss should be an accounting or a cash measure;
- Lack of clarity as to how amounts should be treated where the tax jurisdiction and the location of an activity are different;
- Lack of legislation to prevent double reporting by subsidiaries whose parent companies have reported in a different Member State.

[10] https://eiti.org/

[11] See Chapter 10 Report on Payments to Governments in Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements, and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ L 182, 29.6.2013.

[12] Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013 amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC, OJ L 294, 6.11.2013.

[13] The recent public CBCR for MNEs proposal is, for instance, aimed at enhancing financial investor protection. See Recital 2: "The European Parliament has stressed the need for an ambitious public country-by-country reporting as a means of increasing corporate transparency and enhancing public scrutiny. […] The setting of common rules on corporate income tax transparency will also serve the general economic interest by providing for equivalent safeguards throughout the Union for the protection of investors, creditors and other third parties generally, and thus contribute to regaining the trust of citizens of the Union in the fairness of the national tax systems." There are also US mandatory rules mainly affecting issuers of securities on capital markets, which provide for disclosure on a more or less geographical basis of taxes and revenues. (See: KPMG (2016). Country-by-country reporting, An EU perspective. Page 4) For example, all public companies must comply with Regulation Fair Disclosure. This Regulation broadly requires that when a public company, or any person acting on its behalf, discloses "material non-public information" regarding the company or its securities to certain enumerated persons, the company must concurrently make public disclosure of the same information. At European level, in the context of the revision of the Transparency Directive, it was stated that "investor protection is guaranteed through the mandatory disclosure of half-yearly and yearly financial results, as well as through the disclosures required by the Market Abuse Directive". (https://ec.europa.eu/commission/presscorner/detail/de/MEMO_13_544)

system, whereby all taxpayers pay their fair share in the country where profits are generated [14].

At an international level, within the context of the G8 and the G20, the Organisation for Economic Co-operation and Development (OECD) has introduced a non-public CBCR to tax authorities for high-level tax risk assessment[15]. Under **OECD BEPS Action 13**, multinational companies with consolidated group revenues in excess of EUR 750 million in the previous accounting periodare required to prepare a country-by-country report with aggregate data on the global allocation of income, profit, taxes paid, and economic activity within the tax jurisdictions in which they operate. This information is not to be made publicly available and is only shared with the tax administrations of these jurisdictions. This initiative was implemented at EU level through the Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards the mandatory automatic exchange of information in the field of taxation (**DAC4**)[16].

Furthermore, the **GRI 207: Tax 2019 Standards** have been developed to promote greater transparency of organisations' approaches to taxes.[17] This first global reporting initiative (initiated by the Global Sustainaibility Standards Board, GRI's independent standard-setting body) combines management approach disclosures on tax strategy with public country-by-country reporting of income, taxes, and business activities. This initiative was released in December 2019 and many companies voluntarily comply with the GRI Standards.

Finally, intending to further foster transparency and accountability, on 12 April 2016, the Commission presented a **proposal for a new public CBCR regime** for businesses with multinational reach and with total consolidated group revenue of at least EUR 750 million. This proposal amending the Accounting Directive 2013/34/EU aims to establish financial reporting obligations as regards income tax information by inserting an additional chapter in the Directive relating to 'Report on Income tax information'. After several years of discussions, a provisional political agreement was reached on 1 June 2021.

1.2 Objective of the study

On 20 May 2019, CRD IV was amended by Directive (EU) 2019/878 (CRD V)[18] to reduce risks in the financial sector and to ensure the sector's ability to withstand potential economic and financial shocks. Further, CRD V amended some of the existing articles of CRD IV to address "issues raised in relation to the provisions of Directive 2013/36/EU that proved not to be sufficiently clear and have therefore been subject to divergent interpretations or that have been found to be overly burdensome for certain institutions" (Recital 2). CRD V added the following paragraph to Article 89:

> *"6. By 1 January 2021, the Commission, after consulting EBA, EIOPA and ESMA, shall review whether the information referred to in points (a) to (f) of paragraph 1 is still adequate, while taking into account previous impact assessments, international agreements and legislative developments in the Union, and whether further relevant information requirements may be added to paragraph 1. By 30 June 2021, the Commission shall, on the basis of the consultation with EBA, EIOPA and ESMA, report to the European Parliament and to the Council on the assessment referred*

[14] KPMG (2016). Country-by-country reporting, An EU perspective. Page 4

[15] http://www.oecd.org/tax/country-by-country-reporting-xml-schema-user-guide-for-tax-administrations.htm

[16] Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, OJ L 146, 3.6.2016, p. 8–21.

[17] https://www.globalreporting.org/standards/standards-development/topic-standard-project-for-tax/

[18] Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures, OJ L 150, 7.6.2019.

to in this paragraph and, where appropriate, submit a legislative proposal to the European Parliament and to the Council."

Following the newly added paragraph 6 to Article 89 CRD, this Study aims to evaluate the adequacy of the information listed in points (a) to (f) of Article 89(1) of CRD IV and to assess whether the information or the use of the information makes it possible to meet the objectives of Article 89(1) as described in Recital 52 of Directive 2013/36/EU, or if there are deficiencies and how could they be addressed. An additional input to this Study consists of looking at similar disclosure requirements that may exist in the banking sector or in other business sectors, both within the EU-27 and the US, UK and Australia.

It is noted that the scope of CRD is about to change as of 26 June 2021, due to the introduction of the Investment Firms Regulation[19] and the Investment Firms Directive[20]. From June 2021 onwards, only Class 1A firms (systematically important investment firms or so-called 'systemic firms')[21] and Class 1B firms (large investment firms)[22] will remain subject to the CRR and CRD. Class 1A firms will be reclassified as a credit institution under the CRR and CRD[23], while Class 1B firms will also remain subject to the CRR and CRD, however without the requirement to be reauthorised as a credit institution[24]. This change in scope shall be taken into account throughout this Study[25].

1.3 Intervention logic

An intervention logic summarises how the intervention was (originally) expected to work. It can take, according to the Better Regulation Toolbox "Tool #46. Designing the Evaluation"[26], many different formats. The intervention logic included here has been finalised following the input received from the scoping interviews.

[19] Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014, OJ L 314, 5.12.2019.

[20] Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU, OJ L 314, 5.12.2019.

[21] Class 1A firms (systemic firms) covers those investment firms that are considered to be sufficiently important to the orderly functioning of financial markets that they should be reclassified as credit institutions and be subject to the prudential requirements contained in the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD). Class 1A firms have €30B or more in consolidated assets, trade on own account, and/or perform underwriting of financial instruments (see: Article 62 CRR, amending Article 4(1) Regulation (EU) 575/2013).

[22] Class 1B firms covers large investment firms with €15B or more in consolidated assets that deal on own account and/or carry out underwriting/placing on a firm commitment basis (MiFID activities (3) and/or (6)) but which are not of the same systemic importance as the Class 1A firms (see: Article 1(2)(a) CRR). This category of firms will remain subject to the prudential requirements contained in the CRR and CRD.

[23] See the newly inserted Article 8a CRD IV "Specific requirements for authorisation of credit institutions referred to in point (1)(b) of Article 4(1) of Regulation (EU) No 575/2013", as inserted by the Investment Firms Directive.

[24] See Recital 42 of the Investment Firms Regulation: "Furthermore, it is possible that large investment firms which are not of systemic importance but which deal on own account, underwrite financial instruments or place financial instruments on a firm commitment basis, have business models and risk profiles that are similar to those of other systemic institutions. Given their size and activities, it is possible that such investment firms present some risks to financial stability and, although their conversion into credit institutions is not deemed to be appropriate in light of their nature and complexity, they should remain subject to the same prudential treatment as credit institutions."

[25] At the time of writing, it is uncertain how many Class 1A and Class 1B investment firms will remain subject to CRR/CRD. However, according to some of the contacted authorities familiar with the process, it concerns several tens of investment firms, which are predominantly domestically active. The impact of the inclusion of Class 1 A and Class 1B investment firms is likely to be insignificant. Therefore, investment firms are excluded from the analysis.

[26] https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-46_en_0.pdf

The intervention logic is useful as:

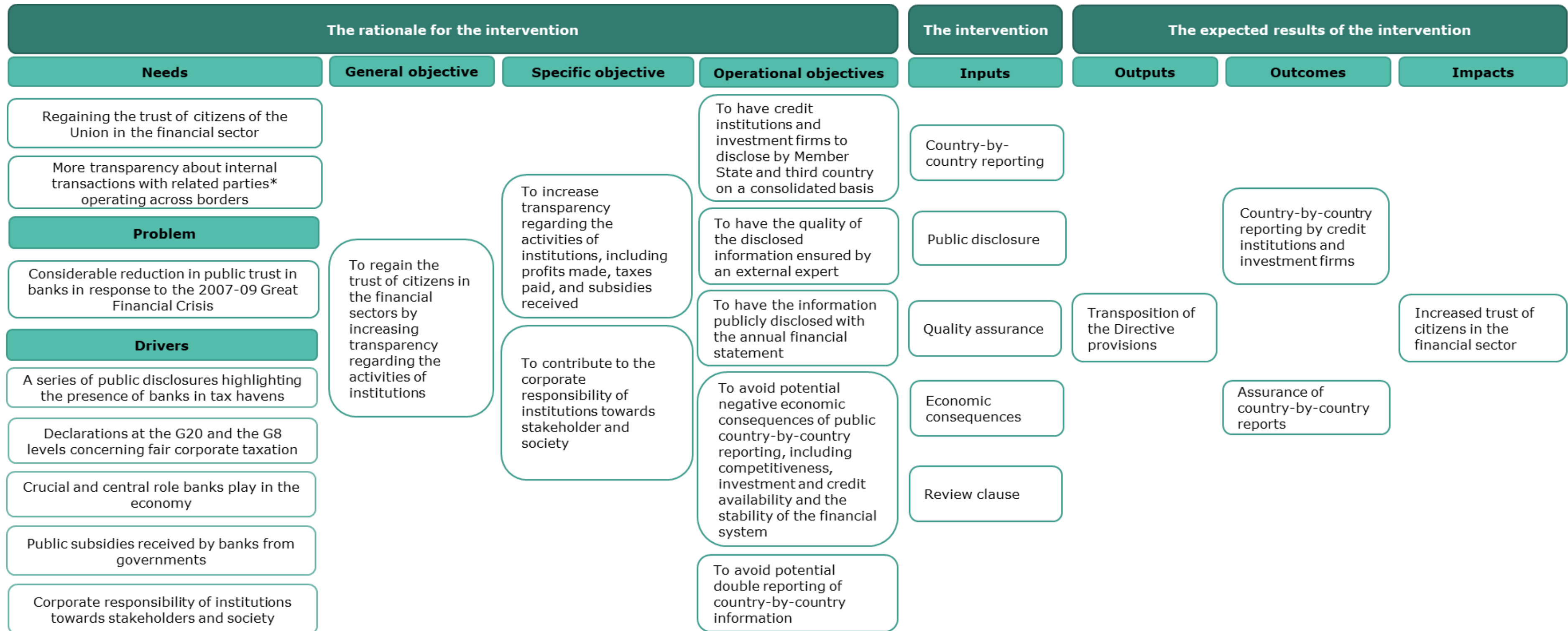
- a communication tool to facilitate the discussions with different parties about the differences in understanding and clarifications of particular details; and
- an analytical tool identifying relationships and/or dependencies that were expected.

Figure 1 presents the reconstructed intervention logic.

The purpose of this study, which follows the European Commission's Better Regulation Guidelines for Evaluations, is to determine the extent to which Article 89(1) CRD IV is fit for purpose, by examining its effectiveness, efficiency, relevance, coherence and EU added value.

The assessment matrix will serve to guide and structure the assessment, unpacking all the assessment criteria and defining the indicators through which a given question will be answered, and includes associated judgement criteria. Further, we have added an additional review area, current status of implementation, allowing the questions to be answered against an appropriate point of comparison. The assessment matrix integrates all the questions listed on pages 3 and 4 of the Tender Specifications. The matrix is presented in Annex I.

Figure 1: Intervention Logic



Note: An entity is related to the bank or investment firm if it is a subsidiary, associate, or joint venture of the bank or investment firm.

Source: Authors' elaboration

1.4 Reading Guide

The remainder of this study first provides in **Chapter 2** a brief **overview of the methodologies** used to gather, analyse and present the data collected for this study. This includes descriptions of the compilation of a database, a survey conducted among companies, interviews held with EU and national stakeholders (banks and their associations, investment firms and their associations, national authorities, national supervisors, accountants, financial analysts and non-governmental organisations (NGOs)), legal mapping and sample analysis. Additionally, Chapter 2 discusses the main limitations of the study and mitigation exercises.

The above is followed in **Chapter 3** by an assessment of the **effectiveness** of Article 89(1) CRD IV, looking at how this particular article has been transposed in all EU Member States, and where practical implementation differs from legal transposition.

Chapter 4 gives an overview of the administrative and incremental costs involved in the disclosure requirements under Article 89(1) CRD IV. The costs are assessed both at the institution level as well as for all the institutions combined.

This is followed by **Chapter 5**, which delves into the **relevance** of Article 89(1) CRD IV. Hereto, stakeholders have given their opinions as to whether or not this Directive provision enhances citizen trust in the financial sector and leads to tax transparency.

Chapter 6 analyses how Article 89 CRD IV fits within the wider CRR/CRD legislation (**internal coherence**) and how this Directive provision compares to similar public and non-public CBCR requirements (**external coherence**). It concludes on potential overlaps or inconsistencies with other pieces of legislation.

Chapter 7 evaluates the **EU added value** of Article 89 CRD IV and poses the question of whether similar needs and problems could have been solved, to a similar extent, at national level.

Finally, **Chapter 8** draws **conclusions** regarding the adequacy of the information listed in points (a) to (f) of Article 89(1) CRD IV and whether additional information could be usefully required under this Article.

2 Methodology

This chapter describes the methodology used for data collection as well as the analysis tools used for this study. These include:

- desk research on (public) CBCR, at national, EU and international level;
- the legal mapping of the current situation in the EU Member States;
- the construction of a database of the institutions subject to the CRR and CRD;
- a survey among institutions covered by the newly amended CRR and CRD;
- interviews with national and EU stakeholders;
- sampling country-by-country reports, and analysis of the administrative costs.

Finally, this chapter discusses the known limitations and any mitigating measures taken.

2.1 Desk research

Desk research has been a crucial element of the data collection approach. It was carried out both at broad EU level and at Member State level, and covered a broad set of topics, including:

- Implementation of Article 89(1) CRD IV, in particular with regard to the choice of options/interpretations that the Article leaves to Member States and to the institutions themselves;
- Implementation of other related disclosure requirements, within the financial sector and beyond, at national, EU and international level;
- Background information on the wider political, legislative, social and economic context related to CBCR;
- Data on the economic, operational and administrative costs of compliance.

The desk research has focused on available statistics, legislation, agreements, policy documents, previous studies, and other publicly available publications (available at international, EU and national level), such as academic articles, grey literature (such as NGOs' position and research papers, working papers, newsletters and conference proceedings), and a selection of country-by-country reports of several global systematically important institutions and other institutions in the scope of Article 89 CRD IV.

The results of the desk research have been used to inform the subsequent stakeholder consultations, the legal mapping exercise and the online surveys.

2.2 Legal mapping

Through legal mapping, a detailed picture of the relevant existing legal frameworks regarding transparency and disclosure requirements is provided.

The legal mapping produced the insights necessary to compile information about the transposition of Article 89(1) CRD IV and to have a detailed picture of the existing regulatory frameworks in all 27 EU Member States, as well as three third countries (i.e. Australia, UK and US).

The main methodological tool for the legal mapping task has been desk research at national level, where relevant national legislation has been at the forefront of the information to be

used, supplemented with publications and reports from relevant national authorities, preparatory (legal) works, Q&As, and publications and reports from European and national associations (e.g. banking associations), etc.

The completed legal fiches are delivered separately from this report.

2.3 Interviews

2.3.1 Scoping interviews

At the start of the preparation of this report, scoping interviews with main EU stakeholders concerned by the implementation of Article 89 CRD IV were carried out. These interviews complemented the literature review and aimed to better define the scope of the different tasks, identify the stakeholders to consult at Member State level and sources of information on country-by-country disclosures, and to finalise the intervention logic. The scoping interviews also fed the analysis on the impact of the country-by-country disclosure requirements for credit institutions and investment firms and on the various assessment questions.

2.3.2 Targeted stakeholder interviews at EU and national level

In addition, targeted interviews have been carried out, both at EU and national level. The interviews focused on how the disclosure requirements laid down in Article 89(1) CRD IV have affected institutions' behaviour and transparency as well as trust in the financial sector. These targeted interviews also aimed to gain further insights into the main problems and difficulties related to the application and adequacy of Article 89(1) CRD IV. The last part of the interview touched upon any other relevant development or initiative that the stakeholder believed to be relevant. The semi-structured template questionnaire for these interviews is available in Annex II.

At EU-level, targeted interviews were conducted with European supervisors (EBA and EIOPA) and other key stakeholders, including representatives from the associations representing banks and investment firms across EU Member States as well as international NGOs. In addition, assurers, reporting professionals and independent researchers were invited for interview. In total, 23 EU stakeholders were invited for interview, of which 12 stakeholders were interviewed (see Table 1).

Table 1: Completed EU stakeholder interviews

Category of stakeholder	Completed interviews
European Supervisory Authority	2
Bank association	1[27]
Investment firm association	1
Accounting association	1
Consumer protection body / NGO	7
Total	**12**

Source: Authors' elaboration (2021)

[27] Representing about 20 to 25% of the EU banking assets.

Most of the EU stakeholders that declined the invitation for interview did not have the competence or capacity to cover the topic.

At national level, at least five different stakeholders were targeted per Member State and non-EEA country for representativeness purposes, with the aim of carrying out three balanced stakeholder interviews per country. In total, 330 national stakeholders were contacted across the 27 Member States and the three non-EEA countries. Table 2 indicates the number of stakeholders contacted per Member State. Given that the information gathered in the three non-EEA countries did not prove to have added value, they are not included in Tables 2 and 3.

Table 2: Number of interviews requested per Member State (Total = 319)

Member States	Number of requested interviews
Austria	6
Belgium	13
Bulgaria	16
Croatia	8
Republic of Cyprus	6
Czech Republic	31
Denmark	13
Estonia	5
Finland	10
France	13
Germany	16
Greece	5
Hungary	13
Ireland	12
Italy	26
Latvia	15
Lithuania	5
Luxembourg	7
Malta	6
Netherlands	15
Poland	18
Portugal	7
Romania	8
Slovakia	18
Slovenia	10
Spain	11
Sweden	6

Source: Authors' elaboration (2021)

Stakeholders from 23 Member States agreed to an interview/completion of the questionnaire, representing mainly Belgium, France, Finland, the Netherlands, Croatia, and Slovenia. Despite an acceptable number of contacted stakeholders, no interviews were conducted in Austria, Cyprus, Greece, Ireland, and Sweden. In some Member States, such as the Czech Republic, Poland, and Slovakia, even though around 20 stakeholders were contacted, only one interview was conducted. In total, 47 interviews were carried out in the Member States and four in the three non-EEA countries (Table 33).

Table 3: Number of interviews completed per Member State (Total = 47)

Member States	Number of completed interviews
Austria	0
Belgium	6
Bulgaria	1
Croatia	4
Republic of Cyprus	0
Czech Republic	1
Denmark	1
Estonia	2
Finland	4
France	3
Germany	1
Greece	0
Hungary	2
Ireland	0
Italy	2
Latvia	2
Lithuania	1
Luxembourg	2
Malta	1
Netherlands	3
Poland	1
Portugal	2
Romania	2
Slovakia	1
Slovenia	3
Spain	2
Sweden	0

Source: Authors' elaboration (2021)

Various efforts were made to ensure that an adequate mix of stakeholder categories was reached. Banks, investment firms, and their related associations were extensively contacted, as these institutions are directly affected by Article 89(1) CRD IV. Financial analysts, accountants, and the associations that represent these professions were also asked to provide their views on the disclosure requirements laid down in Article 89(1) CRD IV. In addition, supervisors, relevant ministries, and tax authorities were contacted, as well as

consumer organisations and NGOs. Table 4 illustrates the wide variety of stakeholders invited for interview.

Table 4: Number of interviews requested per type of stakeholder (Total = 330)

Type of organisation	Number of requested interviews
Ministry / Tax Authority	11
Supervisor	23
Banks	68
Association of banks	23
Investment firms	30
Association of investment firms	24
Accountants	8
Association of accountants	27
Financial analysts	40
Association of financial analysts	10
Consumer protection bodies / NGOs	54
Others	12

Source: Authors' elaboration (2021)

It was mainly the national supervisors, banks and bank associations that were the most interested in participating in an interview (Table 5). They were clearly also the most knowledgeable. The interviewed banks were among the largest banks at national level. In one Member State, three institutions (banks and investment firms) agreed to be interviewed, but with the Chamber of Commerce as an intermediary. Most of the national stakeholders that declined the invitation for interview replied that they did not have the competence, expertise, or capacity to cover the topic. Several NGOs replied that they did not possess the necessary expertise and some national NGOs requested contacting their EU counterpart. Among the fifty national NGOs contacted, only four replied positively – all active in the area of social and corporate responsibility and consumer protection.

Table 5: Number of interviews completed per type of stakeholder (Total = 51)

Type of organisation	Number of completed interviews
Ministry / Tax Authority	2
Supervisor	8
Banks	10
Association of banks	6
Investment firms	4
Association of investment firms	1
Accountants	1
Association of accountants	6
Financial analysts	4
Association of financial analysts	2
Consumer protection bodies / NGOs	6
Others	1

Source: Authors' elaboration (2021)

The results of the interviews are used throughout the analysis.

2.4 Survey

This activity covers part of the targeted consultation for which about 500 credit institutions and investment firms in the scope of CRD IV were invited to participate in a survey between January and May 2021. In total, 23 responses were received (5% response rate), of which one response was dropped, as the respondent indicated that the number of person days indicated were a rough estimate based on an assumption rather than actual information.

The ultimate sample of 22 responses covers banks from ten EU Member States, including Belgium, Denmark, France, Germany, Ireland, Italy, Luxembourg, The Netherlands, Portugal and Sweden. The sample consists mostly of large banks (12 banks with more than EUR 30 billion assets), followed by medium-sized banks (6 with between EUR 5 billion and 30 billion assets) and small banks (4 with less than EUR 5 billion assets). The banks are active in between 1 to 31 countries. Less than half of the banks (9 banks) are active in just one country, whereas the others are active in between two to five countries (5 banks) or more than five countries (8 banks).

The surveys were validated (internally and externally) with the respondents to improve the quality. The survey results are used for the administrative costs assessment.

2.5 Administrative costs

The administrative costs and incremental costs are assessed based on the information obtained through a survey. The Standard Costs Model (SCM) as defined in Tool #60 of the Better Regulation Toolbox[28] was used to quantify the administrative costs generated by the CBCR. The SCM methodology requires the measuring of the annual cost of each relevant information obligation (IO) and identifying the share of these costs that are directly generated by regulatory compliance.

Administrative costs are a specific type of regulatory costs, which are incurred by businesses, citizens and public administrations to provide information to public authorities and/or third parties. Such costs are generated by IOs included in the relevant legislation. Administrative costs usually include the so-called 'business-as-usual' (BAU) factor and the incremental costs (i.e. additional costs directly resulting from those administrative activities that regulated entities only perform to comply with a legal obligation)[29].

Business-as-usual factor

The incremental costs are net of the BAU factor, i.e. the share of administrative costs that a company would bear even in the absence of the CBCR requirement under Article 89 CRD IV. Credit institutions and investment firms perform activities partly because of normal business practices and partly because of legislative requirements. For instance, disclosure of CBCR may be partly or entirely due to disclosures to the tax authorities or part of the non-financial reporting under the GRI standards.

As the BAU factor is quite difficult to estimate, credit institutions and investment firms participating in the survey were requested to provide their best estimate of the extent to which 'activities' (and costs) related to EU rules would occur in the absence of the Article 89 CRD IV. More specifically, for each relevant obligation or group thereof, the BAU could

[28] https://ec.europa.eu/info/files/better-regulation-toolbox-60_en

[29] Incremental costs are usually computed as the difference between the overall administrative costs stemming from a certain IO and the BAU factor.

be measured via a Likert scale question going from 1 (no costs incurred in the absence of the legal obligation) to 5 (all costs incurred even in the absence of the legal obligation).

Personnel costs

Personnel costs per staff category are often considered competitive sensitive information, which companies do not like to disclose. Therefore, this cost component is usually estimated by relying on a mix of publicly available data on wages and information on the time spent by employees performing certain activities. In a nutshell, personnel costs can be computed by:

- Estimating or measuring the time devoted to complying with a legal obligation. The time indicated by respondents, in person-hours, -days, -months or in Full-Time Equivalent (FTE), is usually converted in person-hours per year.
- Multiplying the time by the hourly fee of the staff fulfilling the obligation. Relevant categories of workers carrying out activities related to each legal obligation in a 'normally efficient business' were identified through the survey among banks and investment firms. The monetisation of personnel costs usually relies on average hourly earnings per category of workers at the Member State level based on Eurostat data[30]. The hourly fees include non-wage labour costs and overhead costs.

Start-up costs

As mentioned, the SCM requires distinguishing between one-off and recurring or ongoing costs. This is equivalent to saying that administrative and incremental costs may vary across time and are usually higher in the first year of compliance, when addressees have to deal with both one-off and recurring obligations. In addition, recurring costs may decrease over time, and this is because companies may both develop some learning economies and rely on information already gathered the year before. This aspect has been taken into account when designing the questionnaire, in order to capture the reduction in recurring costs.

The results of the administrative cost assessment are presented in Chapter 4 on efficiency.

2.6 Extrapolation costs

Extrapolation is used to estimate the total administrative costs and total incremental costs for all banks in the EU-27. The analysis is based on the number of institutions and their subsidiaries and branches as well as the median costs, depending on the number of countries covered in the CBCR. For each of the credit institutions in the EU obtained from the list of credit institutions from the ECB[31], it was determined who their parent institutions were as well as the number of their subsidiaries and branches. The number of subsidiaries was determined based on the corporate ownership information in Orbis Europe and the number of branches, based on the branch information in the list of credit institutions from the ECB.

The total amounts were estimated by multiplying the number of parent institutions with the median administrative costs and incremental costs. Besides the absolute amounts, the costs as share of total assets, operating expenses, and turnover are provided for 2019 based on sectoral totals obtained from the ECB.

[30] For further details on Eurostat data see: http://ec.europa.eu/eurostat/web/microdata/structure-of-earnings-survey .

[31] https://www.ecb.europa.eu/stats/financial_corporations/list_of_financial_institutions/html/daily_list-MID.en.html

The results of the extrapolation of the administrative costs are presented in Chapter 4 on efficiency.

2.7 Sample analysis

A sample of country-by-country reports is collected and analysed to obtain an indication of the compliance of the larger banks with the country-by-country reporting requirements. The data is collected on all 129 EU banks that have been subject to the EBA's 2020 EU-wide transparency exercise[32], which represents more than 70% of the European banking activity and are more likely to be internationally active.

The sample contains banks from 25 countries in the EU-27 and UK (see Table 6)[33]. About two-fifths of the banks are from Germany (19 banks), France (12), Spain (12) and Italy (11), with each country having more than ten banks. There are a further eight countries with five or more banks, representing about one third of the banks. The remaining thirteen countries are the country of origin of 29 banks.

Turning to the various size-classifications, just over a quarter of the banks are G-SIIs[34] and other large institutions (35 banks). The O-SIIs[35] represent almost two-fifths of the banks in the sample (49) and the remaining banks (45) represent about one third of the sample.

In terms of multinational activity, about half of the banks (64) are active in five or more countries, while the other banks are fairly equally split between banks active in a single country (33 banks) and banks active in between two to five countries (32).

The sample covered predominantly EU banking groups (109 banks), but there are also some EU subsidiaries from non-EU banks (14) and subsidiaries of non-banking groups (6) such as a bank subsidiary of a car manufacturer.

Table 6: Main characteristics of banks in sample

Category	Number of banks
Country of origin	
Austria	6
Belgium	6
France	12
Germany	19
Ireland	6
Italy	11
Luxembourg	5
The Netherlands	6
Portugal	5

[32] https://www.eba.europa.eu/risk-analysis-and-data/eu-wide-transparency-exercise

[33] AT, BE, BG, CY, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI, and UK.

[34] Global Systematically Important Institutions are institutions whose distress or disorderly failure would cause significant disruption to the global financial system and economic activity. See Article 131 Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.

[35] Other Systemically Important Institutions are institutions that, due to their systemic importance, are more likely to create risks to financial stability. See Article 131 Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.

Category	Number of banks
Spain	12
Sweden	6
UK	6
Other	29
Size	
G-SIIs and other large institution	35
O-SIIs	49
Other	45
Countries	
1 country	33
2-5 countries	32
More 5 countries	64
Type of bank	
European banking group	109
Non-European banking subsidiary	14
Bank with non-bank parent	6
Total	**129**
Excl. non-reporters	*94*

Source: Authors' elaboration (2021)

For each of the collected samples, CBCR is obtained and assessed on the following criteria:

- Name (mentioned);
- Nature of activities (mentioned);
- Geographical location (mentioned and format);
- Turnover (definition, reconciliation, intra-group effects, non-specified countries);
- Profit or loss before tax (definition, reconciliation, intra-group effects, non-specified countries);
- Tax on profit or loss (definition, reconciliation, intra-group effects, non-specified countries);
- Number of employees (definition, reconciliation, non-specified countries);
- Public subsidies received;
- Other indicators covered.

The results of the sample analysis are presented in Chapter 3 on the practical implementation.

2.8 Limitations

In the consideration of the results some limitations should be kept in mind.

The main limitation of the exercise is the relatively low response rate to the interviews and surveys. Many of the stakeholders invited for an interview at national or EU level or credit institutions approached to participate in the survey declined the invitation. In particular at national level, ministries and/or tax authorities, associations of investment firms, associa-

tions of financial analysists and accountants are least represented in the interviews obtained. For the survey, it is merely the accounting organisations, and the small and non-EU banking groups that did not reply to the questionnaire. There were several reasons provided for the decline, such as the limited time available due to the preparation and auditing of the financial statements, and the limited knowledge about the matter at stake. The low response rate is especially a concern for the national interviews, in the sense that the situation could not be assessed for each country from the various stakeholders' perspectives. The Research Team has tried to mitigate the low level of answers throughout the Study by substantially increasing the number of stakeholders to be contacted (vis-à-vis what was originally foreseen in the Inception Report), contacting the stakeholders through various means of communication (email, telephone), sending multiple reminders and offering the option of answering to the questionnaire by email, without the need to set up a dedicated time slot for the interview.

The sample analysis was undertaken on a sample of larger banks, which ensures that the largest share of the banking sector is covered. This means that the smaller banks, foreign banks operating with branches, and subsidiaries of EU banks are relatively underrepresented. This has been kept in mind in the interpretation of the results of the sample analysis.

The analysis has focused on the credit institutions that will be subject to CRD after the implementation of the Investment Firms Regulation and Investment Firms Directive. This means that all the credit institutions are covered, while only Class 1 investment firms that converted to credit institutions were considered. This scope provides the best insights for a future revision of CRD, whereas it provides less insights on the other classes of investment firms that used to be covered under CRD. For these firms, the situation is assumed to be similar to the credit institutions active in a single country.

The assessment of the administrative and incremental costs is complicated due to the way the reporting is prepared. Indeed, the country-by-country reporting is often prepared by various administrative departments of banks, which combine the preparation of the country-by-country reports with other reporting and corporate activities. Moreover, some of these activities are undertaken for various reporting and disclosure requirements such as the CBCR under CRD and DAC, segment reporting and business reporting. The combination of activities makes it more difficult to assess how much time and resources are used for the CBCR under CRD. The median values of the administrative and incremental costs are therefore presented in the core text, which accounts for random over- and under estimations.

3 Effectiveness of CBCR challenged by differences in implementation

The effectiveness of the country-by-country requirements under Article 89(1) CRD IV depends on the quality of the reporting and the ability to meet the objectives through CBCR.

The assessment of the implementation is based on a legal analysis of the transposition as well as practical implementation based on a combination of a literature review, analysis of a sample of country-by-country reports and interviews with stakeholders at both national and EU level.

3.1 Transposition of Article 89(1) CRD by Member States

All EU Member States have transposed Article 89(1) CRD IV into their national legislation. Article 89(1) CRD IV had to be transposed in national legislation by 31 December 2013. A compliance assessment on the transposition of CRD IV was conducted in 2014 by an external contractor for each EU Member State and work has been undertaken to see whether any significant changes have taken place in their respective national legislation with regard to the transposition of this particular Article since then. While most Member States have not significantly changed the transposing provision(s) since 2014, a few other Member States have updated their transposing legislation in order to (better) comply with Art. 89(1) CRD IV (or with other legislation):

- **Bulgaria** (2015)[36], **Denmark** (2017)[37], **Estonia** (2018)[38] extended the application of its provisions transposing Article 89 CRD IV to investment firms.
- In the **Czech Republic** (2017)[39], the national measures transposing Article 89(1) of CRD IV in relation to investment firms were modified, while the national transposing measures in relation to banks and credit unions remained unamended. In particular, the original requirement for investment firms to disclose their "turnover" has been replaced by a requirement to disclose their "annual net turnover" and the original requirement for investment firms to disclose the "number of employees on a full-time equivalent basis" has been replaced by a requirement to disclose the "average number of employees". The explanatory memorandum notes that this change was necessary to bring the wording in line with the new terminology of the Czech Accounting Act[40].
- **Croatia** has presented numerous changes since 2014. Most of these changes concern elements that were missing in the original transposition of Article 89(1) CRD IV and have been added to address an incomplete transposition.
- **France** has added the terms "other than portfolio management companies" after the enumeration of institutions in the scope of the provision[41]. The transposition

[36] Article 134 of the Markets in Financial Instruments Act (*Закон за пазарите на финансови инструменти*), available at: https://www.lex.bg/bg/laws/ldoc/2137180966

[37] Section 124a(1) of the Executive order No. 281 of 26 March 2014 on the financial reporting of banks, investment firms and others was amended in 2017 by Executive Order No 1043 of 05 September 2017 (*BEK nr 281 af 26/03/2014 - Finansielle rapporter for kreditinstitutter og fondsmæglerselskaber m.fl.*), available at https://www.retsinformation.dk/eli/lta/2014/281

[38] The *Väärtpaberituru seadus* (Securities Market Act) was amended on 19 December 2018 and Section 110 (3-1) of the Securities Market Act entered into force on 20 January 2019. Available at: https://www.riigiteataja.ee/akt/104122019004?leiaKehtiv

[39] Act No 256/2004 on Capital Market Undertaking (*Zákon č. 256/2004 Sb., o podnikání na kapitálovém trhu*), available at https://www.zakonyprolidi.cz/cs/2004-256

[40] Explanatory memorandum to Act No 204/2017, available at https://www.psp.cz/sqw/text/orig2.sqw?idd=127462

[41] Article 121 of Law No 2016-1691 of 9 December 2016 relating to transparency, the fight against corruption and the modernisation of economic life amended Article L.511-45 of the Monetary and Financial Code. Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033613177/

into French law of Directive 2014/65/EU (MiFID II) required aligning French law with European law on the scope of investment firms to avoid unjustified constraints on portfolio management companies that are outside the scope of MiFID II. Thus, the modification at hand was part of a broader modification of the French legislation.
- **Hungary** added in 2015 the term "on a consolidated basis" to the national provisions transposing of Article 89(1) CRD IV[42] .
- **Poland** amended the transposition in 2017 to specify that the audit of the activity reports, where information listed in Article 89 of CDR IV must be disclosed, is to be carried out by an auditor[43].
- **Slovakia** explicitly added the term "name" in one of the two main pieces of transposing legislation in order to align the wording with Article 89(1)(a) of the CRD IV[44].

Considering the initial transposition and changes in recent years, the national transposition of Article 89(1) CRD IV is fully compliant in most Member States. Nevertheless, a few Member States present some **conformity issues** in their transposing legislation:

- **Italy** seems to have transposed the Directive provision only for credit institutions and not for investment firms[45].
- **Slovakian** national legislation does not require the disclosure of information "in a way specifying, by Member State and by third country in which it has an establishment", leading to the conclusion that the information requirements do not have to be disclosed on a country-by-country basis[46]. Also, the indicator "name" has not been transposed with regard to investment firms.
- **Lithuania** sets out a waiver in the national legislation applying to financial brokerage firms, stipulating that an institution shall be entitled to not disclose (a part of) information if it fulfils one of the following conditions: a) information is not important; b) disclosure would harm the institution's competitive position; or c) information is considered as confidential due to obligations to clients or due to other

[42] Act CCXV on the amendment of certain acts concerning the financial intermediary system for the purpose of approximation of 22 December 2015, available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=193133.317837
[43] https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20170000724
[44] Act No 340/2020 of 29 December 2020 amending and supplementing Act No 483/2001 on banks, as amended and amending and supplementing certain other acts
[45] This potential problem for investment firms has been confirmed by various stakeholders (a law firm and a large bank). According to Circular 285/2013, Part One, Title III, Chapter 2 CBCR, Section II Disclosure requirements, point 1 *'Banks publish annually, and with reference to each State where they are established, the information listed in art. 89 CRD IV on a consolidated basis. This information shall be quantitative and qualitative, and should be represented in the format and criteria provided for in Annex A to this Chapter. (…)'* The provision of art. 89 of CRD IV has been transposed into the national regulation by means of the 4th update of Circ. 285, issued on the 17th of June 2014. These provisions apply to banks. As regards their application to investment firms, in the consultation document of the 4th update of Circ. 285, it has been specified that the provisions on country-by-country reporting were going to be included in the new regulations for investment firms ("Nuovo regolamento SIM"), which has not been issued, so far. The consultation document also clarifies that, pending the adoption of the Nuovo regolamento SIM, investment firms shall comply with the relevant provisions contained in Circ. 285. The consultation document is published on the website of the Bank of Italy at the following URL: https://www.bancaditalia.it/compiti/vigilanza/normativa/consultazioni/2014/applicazione-dir-ue-36-13/documento_consultazione.pdf.pdf (p. 3) - *Per quanto riguarda le SIM (Società di intermediazione mobiliare), si fa presente sin d'ora che le disposizioni in materia di country by country reporting che saranno inserite nel "regolamento SIM", in corso di predisposizione (cfr. comunicazione al sistema del 31.3.2014) (2), ricalcheranno quelle emanate per le banche. Nelle more dell'adeguamento delle citate disposizioni, le SIM si atterranno al disposto normativo ora previsto per le banche.* It is not clear whether this unique sentence inserted in a consultation document dated May 2014 could be sufficient to state that Article 89 CRD IV applies to SIMs in Italy, given that the new Regulation also has not been issued.
[46] Act No 483/2001 Coll. on Banks and amending and supplementing certain acts, available in English at: https://www.nbs.sk/_img/Documents/_Legislativa/_BasicActs/Z483-2001%20zmeny_novela%2054-2019_TRA-EN.pdf and Act No 566/2001 Coll. on Securities and Investment Services and amending and supplementing certain acts, available in English at: https://www.nbs.sk/_img/Documents/_Legislativa/_FullWordingsOther/A566-2001.pdf

binding links[47]. If an institution uses the said waiver, it must inform the public what information has not been disclosed, state the reason for the non-disclosure and provide more general information. It is noted that, at European level, this waiver is not foreseen with regard to Article 89 CRD IV – in fact, it is a waiver that should only apply to Part Eight CRR.

Besides the conformity issues highlighted above, there are some more specific issues related to the scope of application, means of disclosure and indicators discussed in the sections below.

Conclusions

Article 89(1) CRD IV has been transposed by all Member States, with a few conformity issues observed in Slovakia and Lithuania. There is some uncertainty as to the scope of application of the Italian national transposing legislation.

3.2 Scope of application

3.2.1 Type of institution

The country-by-country reporting requirement applies to both credit institutions and investment firms, terms that are defined in points (1) and (2) of Article 4(1) of CRR and collectively called "institutions". According to Article 4(1)(1), "**credit institution**" means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account. Pursuant to Article 4(1)(2), "**investment firm**" means a person as defined in point (1) of Article 4(1) of Directive 2004/39/EC, which is subject to the requirements imposed by that Directive, excluding the following: (a) credit institutions; (b) local firms; (c) firms which are not authorised to provide the ancillary service referred to in point (1) of Section B of Annex I to Directive 2004/39/EC, which provide only one or more of the investment services and activities listed in points 1, 2, 4 and 5 of Section A of Annex I to that Directive, and which are not permitted to hold money or securities belonging to their clients and which for that reason may not at any time place themselves in debt with those clients.

It is noted that the scope of CRD is about to change as of 26 June 2021, due to the introduction of the Investment Firms Regulation and the Investment Firms Directive. From June 2021 onwards, only Class 1A firms and Class 1B firms will remain subject to the CRR and CRD. Class 2 investment firms will be subject to the CBCR requirement laid down in Article 27 of the Investment Firms Directive. Class 3 investment firms will no longer be obliged to disclose on a country-by-country basis.

The term "institution" has further been expanded by Article 3(3) as inserted by CRD V to include: *"(a) financial holding companies[48] and mixed financial holding companies[49] that have been granted approval in accordance with Article 21a of this Directive;(b) designated*

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[47] Resolution No 03-94 of the Bank of Lithuania Board adopted on 11 June 2015 (*Lietuvos Banko valdybos 2015 m. birželio 11 d. nutarimas Nr. 03-94 dėl Lietuvos Banko valdybos 2012 m. liepos 12 d. nutarimo Nr. 03-160 „Dėl finansų maklerio įmonių ir valdymo įmonių visuomenei skelbiamos informacijos taisyklių patvirtinimo" pakeitimo*), available at: https://www.e-tar.lt/portal/lt/legalAct/TAR.8CC1ACAE1AFB/asr

[48] Article 3(20) CRD IV: 'mixed financial holding company' means "mixed financial holding company as defined in point (21) of Article 4(1) of Regulation (EU) No 575/2013", i.e. "mixed financial holding company as defined in point (15) of Article 2 of Directive 2002/87/EC", i.e. "a parent undertaking, other than a regulated entity, which, together with its subsidiaries — at least one of which is a regulated entity which has its registered office in the Union — and other entities, constitutes a financial conglomerate".

[49] Article 4(1)(22) CRR: "mixed activity holding company" means "a parent undertaking, other than a financial holding company or an institution or a mixed financial holding company, the subsidiaries of which include at least one institution".

institutions controlled by an EU parent financial holding company, an EU parent mixed financial holding company, a parent financial holding company in a Member State or a parent mixed financial holding company in a Member State where the relevant parent is not subject to approval in accordance with Article 21a(4) of this Directive; and (c) financial holding companies, mixed financial holding companies or institutions designated pursuant to point (d) of Article 21a(6) of this Directive." The reason for this inclusion is that "financial holding companies and mixed financial holding companies can be parent undertakings of banking groups […]" (Recital 3 CRD V) and it consolidates the situation in e.g. France where the French CBCR Regulations were going beyond the CRD IV requirements as the French scope was broader by including credit institutions, investment firms, financial companies, mixed financial companies as well as other companies (the latter to the extent the EU adopts a rule including other types of entities)[50]. CRD V had to be transposed by the Member States by 28 December 2020.

Legal transposition

Article 89(1) CRD IV applies to both credit institutions and investment firms and this has been transposed as such by all Member States. There is some uncertainty as to the scope of application of the Italian national transposing legislation.

The amended scope of application of CRR and CRD, due to the IFR and IFD, has not yet been reflected in the national legislation of most Member States, given the transposition deadline of 26 June 2021. Only five Member States have transposed the amended scope in their national legislation as of April 2021 (i.e. when the desk research for this Study was finalised). In fact, two Member States (HU[51], NL[52]) have reflected the amended scope of

[50] PWC, *A practical guide to the UK regulations. Country by country reporting under CRD IV*, February 2014, p. 25. Available at: https://www.pwc.co.uk/tax/assets/a-practical-guide-to-the-uk-regulations-cbcr-under-crd-iv.pdf

[51] The definitions have already been updated in Hungary following the Investment Firms Regulation and the Investment Firms Directive. Act CX/2020 amended Article 123/A of the Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities (*2007. évi CXXXVIII. törvény a befektetési vállalkozásokról és az árutőzsdei szolgáltatókról, valamint az általuk végezhető tevékenységek szabályairól*), which amendment will enter into force on 26 June 2021. According to that amendment, investment firms that have a branch or subsidiary that is a financial institution as defined in point (26) of Article 4(1) of Regulation 575/2013/EU in an EEA Member State or in a third country will be subject to that disclosure obligation. The newly adopted Article 3/B of the Act CXXXVIII affects the scope of Article 123/A(1) as it will provide that small and non-interconnected investment firms will not be subject to that provision transposing Article 89(1) of CRD IV.

[52] Decree of 11 September 2014, laying down rules for the implementation of Articles 89 and 90 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJEU 2013, L 176) (Decree Execution Publication Requirements of the Capital Requirements Directive), *Besluit van 11 september 2014, houdende regels ter uitvoering van de artikelen 89 en 90 van Richtlijn 2013/36/EU van het Europees Parlement en de Raad van 26 juni 2013 betreffende toegang tot het bedrijf van kredietinstellingen en het prudentieel toezicht op kredietinstellingen en beleggingsondernemingen, tot wijziging van Richtlijn 2002/87/EG en tot intrekking van de Richtlijnen 2006/48/EG en 2006/49/EG (PbEU 2013, L 176) (Besluit uitvoering publicatieverplichtingen richtlijn kapitaalvereisten)*, available at: https://zoek.officielebekendmakingen.nl/stb-2014-334.html . The term 'bank' is laid out by the Act on Financial Supervision, while 'investment firm' is defined as in the Regulation on Capital Requirements. The terms have been defined in accordance with points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013. Any updates or changes to these definitions will automatically apply to the Dutch scope as well. Furthermore, the Investment Firms Directive has been transposed by the Netherlands through the Decree of 20 March 2020 amending the Decree on regulated markets.

application in their national legislation, while three Member States (AT[53], BE[54], IE[55]) reflected the change with a direct cross-reference to the definitions laid down in CRR.

As of April 2021, only **nine Member States** (BG, FI, FR, DE, IE, IT, NL, SK, SE) include within the term 'institution' those companies and institutions referred to in Article 3(3) as inserted by CRD V.

Finally, the national scope of the **Austrian** transposing law is wider than envisaged in CRR/CRD, given that it applies to both CRR and non-CRR credit institutions[56]. The latter include entities authorised to provide banking transactions if carried out for commercial purposes, such as deposit business[57], current account business[58], lending business[59], issuance of payment instruments.

Conclusions

In all Member States, with a possible exception of Italy[60], national provisions transposing Article 89(1) CRD IV apply to both credit institutions and investment firms. Transposition

[53] With regard to credit institutions, Section 1a of the Banking Act (*Bankwesengesetz, BGBl. Nr. 532/1993*) provides that CRR credit institutions are defined by direct reference to Regulation (EU) No. 575/2013. Furthermore, all credit institutions as defined under Austrian law shall be considered as CRR credit institutions for the purposes of the CRR. With regard to investments firms, only CRR investment firms are subject to the CBCR requirements in the Austrian Investment Supervision Act (WAG 2018). CRR investment firms are defined by direct reference to Regulation (EU) No. 575/2013. The Austrian government has prepared a bill to amend the relevant legislation in view of CRD V, the Investment Firms Regulation and the Investment Firms Directive. It aims to add the definition of "CRR institutions" which will directly refer to the definition of the CRR. In any case, the definitions do not need to be updated due to the direct references to the definitions of credit institutions and investment firm of Regulation (EU) No. 575/2013.

[54] Section XXXI in the Annex to Royal Decree of 23 September 1992 on the annual accounts of credit institutions, investment firms and management companies of undertakings for collective investment, and Art. 6 of Royal Decree of 23 September 1992 on the consolidated annual accounts of credit institutions, investment firms and management companies of undertakings for collective investment directly recall the definitions in CRR. The terms have been defined in accordance with points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013. Any updates or changes to these definitions will automatically apply to the Belgian scope as well. It is nevertheless to be noted that the Investment Firms Directive has not yet been transposed by Belgium.

[55] The disclosure obligations apply to all institutions as defined by Article 3(1) SI 158/2014 (Statutory Instrument number 158 of 2014 'European Union (Capital Requirements) Regulations 2014, http://www.irishstatutebook.ie/eli/2014/si/158/made/en/print) which refer to the definitions provided by the CRR. The definitions in the transposing legislation cross-refer to the ones laid down in Regulation (EU) No 575/2013. Therefore, once the amendments introduced by the Investment Firms Regulation to those definitions enter into force, the definitions in the transposing legislation will mirror those changes and so will the related obligations. With regard to the transposition of the Investment Firms Directive, Ireland has not yet notified any transposing measure.

[56] Section 1a of the Banking Act provides that CRR credit institutions are defined by direct reference to Article 4 Paragraph 1 Regulation (EU) No. 575/2013. Section 1 of the Austrian Banking Act defines credit institutions under national law as entities allowed to provide banking transactions, as listed in the same provision (incl. deposit business, giro business, credit business, issuance of payment instruments, etc.). Section 1a(2) of the Banking Act states: "Without prejudice to Article 3, the provisions of Regulation (EU) No 575/2013 as well as any legal acts introduced on its basis shall be applied to credit institutions that are not CRR credit institutions as if these credit institutions were CRR credit institutions. If the provisions of Regulation (EU) No 575/2013 are applied to credit institutions that are not CRR credit institutions, they shall be treated as CRR credit institutions by other credit institutions and within their own group of credit institutions." For the English version of the Austrian Banking Act, see: https://www.fma.gv.at/en/national/supervisory-laws/

[57] "The acceptance of funds from other parties for the purpose of administration or as deposits" (Art. 1(1)(1) Banking Act).

[58] "The provision of non-cash payment transactions, clearing services and current-account services for other parties" (Art. 1(1)(2) Banking Act).

[59] "The conclusion of money-lending agreements and the extension of monetary loans" (Art. 1(1)(3) Banking Act).

[60] There is uncertainty about the application of CBCR to investment firms. See for further information Section 3.1 above.

generally took place in one piece of legislation or in two pieces of legislation (each covering a different institution).

The amendments to the scope of application, inserted by the IFR and IFD, have not yet been reflected in the national legislation of most Member States (April 2021). This cannot be seen as a problem as the transposition deadline is set on 26 June 2021.

An increasing number of Member States have extended the scope in line with Article 3(3) CRD V and hence oblige financial holding companies and mixed financial holding companies to disclose information on a country-by-country basis.

3.2.2 Covered activities

The introductory sentence of Article 89(1) CRD IV is as follows: "Member States shall require each institution to disclose annually, specifying, by Member State and by third country in which it has an establishment, the following information on a consolidated basis for the financial year […]". This subsection looks at how "in which it has an establishment" and "on a consolidated basis" has been transposed in all EU Member States and how these terms have been interpreted in practice.

Establishment

The term "establishment" for the purpose of CBCR has not been defined in CRR/CRD. It could include subsidiaries, branches and/or affiliated undertakings consolidated in the financial statement. The CRR/CRD does not make explicit either whether or not European branches of non-EEA institutions are obliged to comply with CBCR. The EBA clarified in Q&A 2014_1248[61] that "[t]he term 'establishment' in Article 89(1) should not be interpreted in a way that would restrict disclosure. The term 'establishment' should be read as referring to subsidiaries, branches and other relevant entities through which an institution has a physical presence in a particular country".

Legal transposition

Most of the Member States have transposed the term "establishment" or "established" (or similar) in their national legislation, with the exception of seven Member States (CZ, EE, FI, HU, LV, PL, SK). On the one hand, **Hungary**[62] and **Slovakia**[63] do not refer at all to "in which it has an establishment". On the other hand, **Finland** refers to "having a branch or

[61] EBA, Q&A 2014_1248 https://eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2014_1248.

[62] The transposition of CRD IV was carried out by the amendment of the Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities and the Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (*2013. évi CCXXXVII. törvény a hitelintézetekről és a pénzügyi vállalkozásokról)* which does not require that the disclosure shall be carried out for each country in which the institution has an establishment and does not define the term of establishment either. The scope of these laws is determined by listing the activities subject to authorisation of the competent authority. Investment firms are governed by the Act CXXXVIII, whilst the activity of credit institutions falls under the scope of the Act CCXXXVII. Institutions (credit institutions and investment firms) falling under consolidated supervision have to comply with the requirement of Article 123(1) Act CCXXXVIII /123/A(1) Act CCXXXVIII, however, subsidiaries and branches of non-EEA institutions and institutions not subject to consolidated supervision are not covered.

[63] Article 37(6) of Act No 483/2001 Coll. on Banks and amending and supplementing certain acts (https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/483/20210101) and Article 77(2) of Act No 566/2001 Coll. on Securities and Investment Services and amending and supplementing certain acts (https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/566/20210101#paragraf-144.odsek-24) do not use the term 'establishment' nor a similar term.

subsidiary"[64], **Estonia** to "where the place of business of a credit institution is located"[65] **,** **Latvia** includes "credit institution or its subsidiaries and investment brokerage firm or its affiliates"[66], the **Czech Republic** refers to "controlled persons and branches"[67] **and Poland** to "where it has subsidiaries"[68].

Following CRR/CRD, national legislation in 23 Member States does not make explicit whether European branches of non-EEA institutions are obliged to comply with CBCR and implicit deductions were most often not possible to make. Exceptions were found in **France** (where an Order of 11 September 2015 sets out the prudential regime for branches established on French territory of credit institutions having their head office in a non-EEA country), **Italy** (where Circular 285/2013 (Title III – Chapter 2 Country-by-Country Reporting, Section 2 Scope of Application states that CBCR disclosure obligations apply on an individual basis to Italian banks not belonging to a banking group and to branches in Italy of non-EU banks), **Luxembourg** (where Art. 38 Law on the Financial Sector shall apply to Luxembourg branches of CRR institutions which have their head office in a third country), and **Slovenia** (stating that the transposing provisions shall apply mutatis mutandis to third country branches)[69].

<u>Practical implementation</u>

In practice, the large majority of the banks with branches seem to cover the figures for these branches in the countries where these branches are active. Looking at the banks in the sample, about half of the banks cover all their branches (see Figure 2). Moreover, about 6% of the banks only cover part of their branches. In some cases this might be because the banks have a branch in a specific country, but no activities. In addition, about 1% of the banks do not cover their branches in the CBCR and about 9% of the banks have branches, but do not publish a country-by-country report. The remaining about one third

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[64] The term 'establishment' is addressed in Section 12(2) of Chapter 10 of the Credit Institutions Act (*Laki Luottolaitostoiminnasta*, 8.8.2014/610: https://finlex.fi/fi/laki/ajantasa/2014/20140610#O3L10P12) by requiring the credit institution – when issuing its financial statement – to provide information on each foreign country where the credit institution or its holding company has a branch or a subsidiary. Thus, reference is made to both subsidiaries and branches of both EU and non-EU countries.

[65] According to section 92 (8) of the *Krediidiasutuste seadus* (Credit Institutions Act, https://www.riigiteataja.ee/akt/104012021033?leiaKehtiv) a credit institution shall disclose "where the place of business of a credit institution is located". The General Part of the Civil Code is the national act that regulates and defines the term "place of business".

[66] Latvian transposing measures do not contain a specific definition of the term 'establishment'. The introductory wording of Article 89(1) CRD IV in its transposed version refers to "in which it performs business", while the transposition of Article 89(1)(a) of CRD IV in BIB 2020 provision refers to the name, type of activity and geographical location of "credit institution or its subsidiaries and investment brokerage firm or its affiliates".

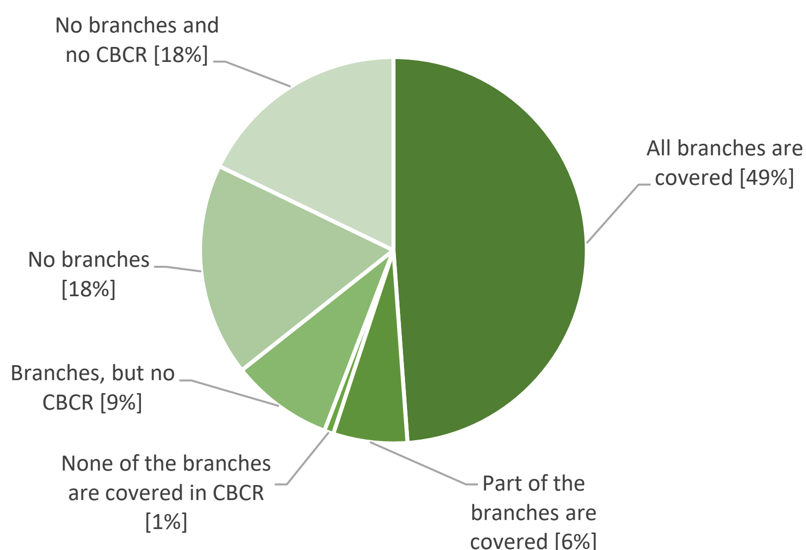
[67] None of the national transposing measures use the term "establishment". The national transposing measures concerning banks (Act No 21/1992 - *Zákon č. 21/1992 Sb., o bankách*) and investment firms (Act No 256/2004 - *Zákon č. 256/2004 Sb., o podnikání na kapitálovém trhu*) refer to controlled persons and branches instead. The national transposing measure concerning credit unions (Act No 87/1995 - *Zákon č. 87/1995 Sb., o spořitelních a úvěrních družstvech a některých opatřeních s tím souvisejících a o doplnění zákona České národní rady č. 586/1992 Sb., o daních z příjmů*) refers only to branches, while controlled persons are not explicitly referred to. The explanatory memorandum to Act No 87/1995 does not explain the difference in approach towards banks (including controlled persons and branches) and credit unions (only including branches).

[68] The term "establishment" has been transposed by the term "where it has subsidiaries" (in Art. 111a of Banking Law Act and Art. 110w of Act on Trading in Financial Instruments).

[69] From Art. 1, para.3, of the Banking Decision (*Sklep o poslovnih knjigah in letnih poročilih bank in hranilnic*), it follows that the provisions of this Decision shall apply mutatis mutandis to branches of third-country banks, which consequently means that European branches of non-EEA institutions are required to comply with CBCR. A similar provision is included in Art. 1, para 2 of the Brokerage Decision (*Sklep o poslovnih knjigah, letnih in polletnih poročilih borznoposredniških družb*) where it is stipulated that the provisions of this Decision shall apply mutatis mutandis to branches of investment firms in third countries.

(34%) of the banks in the sample have no branches. Overall, about one in four banks with branches is not or only partially covering the branches in the country-by-country report.[70]

Figure 2: Coverage of EEA and non-EEA branches in country-by-country reports [share of banks]



Source: Authors' elaboration (2021)

The banks in the countries with an explicit requirement to include branches are based on the banks in the sample adhering to this requirement when they disclose a country-by-country report. More specifically, the eight banks from the five Member States (CZ, EE, FI, LV, PL) in the sample either cover all branches (2 out of 8 banks), have branches but no country-by-country report (2 out of 8 banks) or do not have branches (4 out of 8 banks).

The coverage of affiliated entities consolidated in the financial statements is discussed for the individual indicators in section 3.4, as part of the reconciliation results.

Conclusions

Despite the guidance by the EBA in the Q&A, there seems to be uncertainty about the treatment of branches and affiliated undertakings in those countries where the term 'establishment' was not interpreted. This is the case in the majority of Member States, although there are some Member States requiring consideration of branches, subsidiaries and any affiliated undertakings consolidated in the financial statements. In practice, the large majority of the banks with branches seem to cover these branches in their country of operations in the country-by-country report. Nevertheless, about a fifth of the banks with branches seem to cover only part of the branches or none of them.

Further, there is uncertainty in most countries as to whether or not European branches of non-EEA institutions are required to comply with CBCR; this has only been clarified in very few Member States, such as France, Italy, Luxembourg and Slovenia.

[70] In total, 65% of the banks in the sample operate EEA or non-EEA branches, while the remaining banks do not have branches. Among the sampled banks, 16% do not or only partially report the activities of their branches. This includes banks with branches but not disclosing a country-by-country report (9%), banks which do not cover the branches in their country-by-country report (1%), and banks which only cover part of the branches in their country-by-country report (6%).

Consolidated basis

The term "consolidated basis" is a defined term under CRD and CRR (cf. Article 3(1)(44) CRD and Article 4(1)(47) and (48) CRR) and refers to a prudential scope of consolidation, meaning that prudential adjustments are taken to financial consolidation. The scope of consolidation corresponds to those entities that contribute to the consolidated balance sheet of the company (see Article 18 CRR). The scope of prudential consolidation is centred around credit institutions, investment firms, financial institutions or an ancillary service undertaking, excluding insurance companies, for example[71].

The EBA remarked in its Q&A 2014_1248 that Member States may also prescribe a more extensive scope of consolidation[72]. In other words, they can use the accounting scope of consolidation (i.e. financial consolidation) and follow *IFRS 10 Consolidated Financial Statements*[73]. IFRS standards are more concerned with the concept of 'control' and IFRS 10 outlines the requirements for the preparation and presentation of consolidated financial statements, requiring entities to consolidate entities it controls. This is especially relevant in those countries where financial institutions combine lending and insurance activities. The accounting scope of consolidation should include the companies that the parent company owns outright or is in partnership with (by holding at least half of the shares) or in which it has a sizeable stake (presumed to be at least a fifth of the shares). Nevertheless, the IFRS standards allow for exceptions. Banks may, for example, decide that below a certain threshold (balance sheet, turnover or staff), certain subsidiaries are 'not significant' and therefore not consolidated, meaning that they do not appear in the reporting. Consequently, under CRR and CRD, companies that would not necessarily be considered part of a consolidated group under IFRS standards may still be covered by prudential consolidation, and vice versa.

In any event, the EBA remarked that institutions should make clear in the disclosure precisely which scope of consolidation has been used and reconcile the published information with the consolidated annual financial statements where applicable. According to Article 436 CRR, institutions already need to actively report differences between financial consolidation and prudential consolidation with a brief outline of the reasons for those differences.

Given that both branches/subsidiaries and parent undertakings might have to disclose the information on a country-by-country basis, there is a possibility that the same information on the same entity is reported more than once. Therefore, some Member States have included in their national legislation a provision to prevent double disclosures. For example, where a subsidiary is an "institution" of a different European jurisdiction "institution", the subsidiary institution is no longer required to report given that it will be within the scope of its parent's CBCR disclosure.

Legal transposition

Most of the Member States have transposed the term "on a consolidated basis" in their national legislation. However, eight Member States (BE, CZ, EE, FI, LV, SK, SI, SE) did not transpose this term (or equivalent). In **Slovakia**, the non-transposition of the requirement to disclose information "on a consolidated basis" was already identified in the initial conformity assessment, and it persists. In addition, **Estonia, Slovenia and Sweden** did not transpose the term. In the **Czech Republic, Finland, and Belgium**, even if the term "on a consolidated basis" was not expressly transposed, the fact that the information shall be disclosed in a consolidated form may be inferred from the fact that the information needs to be disclosed in the notes/annex to the consolidated financial statement. Finally, **Latvia**

[71] https://www.wolterskluwer.com/en/expert-insights/prudential-consolidation-a-perfect-storm
[72] EBA, Q&A 2014_1248 https://eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2014_1248
[73] IFRS 10 Consolidated Financial Statements outlines the requirements for the preparation and presentation of consolidated financial statements, requiring entities to consolidate entities it controls.

states that the information must be disclosed "in an aggregated form and in a divided form" – without providing any definitions[74].

The term "on a consolidated basis" as provided in Article 89(1) CRD IV and as defined in Article 4(1)(48) CRR has not been clearly defined in the context of CBCR in the majority of Member States. In the absence of a clear definition, this term has often been interpreted in guidance notes or preparatory works as "following IFRS" or "following CRR", which leads to different scopes of consolidation. Only **France and Poland** clearly state which scope of consolidation has to be followed. Indeed, the French national provision transposing Article 89(1) CRD IV expressly cross-refers to the definition of the accounting scope of consolidation in the French Commercial Code[75], while the Polish transposing provision refers to "consolidated basis in accordance with Art. 4 para. 1 point 48 of Regulation (EU) No 575/2013"[76] and hence opting for a prudential scope of consolidation.

[74] Latvian transposing legislation does not include a definition of the term "consolidated basis". It needs to be observed that as such, the definition of the term "consolidated basis" has not been transposed into the relevant Latvian laws and regulations. Instead, pursuant to BIB 2020, credit institutions and investment brokerage firms shall present information "in an aggregated form and in a divided form". The term "aggregated form" is not defined in Latvian laws either.

[75] Article L. 511-45 of the Monetary and Financial Code, which transposes Article 89(1) CRD IV, expressly cross-refers to the scope of consolidation defined in Articles L. 233-16 and seq. of the Commercial Code.

[76] Banking Law Act, Art. 111a(1) point 1) and (2) with regard to banks and Act on trading in financial instruments, Art. 110w(1) point (1) and (2) with regard to brokerage houses.

An exemption to prevent double disclosure has been included in national legislation in eight Member States (**BE**[77]**, BG**[78]**, FR**[79]**, DE**[80]**, LT**[81]**, MT**[82]**, NL**[83]**, SE**[84]).

Practical implementation

The practice concerning the prudential or accounting basis is not mentioned in the large majority of the country-by-country reports. In nearly all, if not all the cases, the banks might follow the same consolidation as the accounting basis, based on the reconciliation results (see section 3.4).

[77] Article 89(1) CRD IV has been transposed in both the Royal Decree of 23 September 1992 on the annual accounts of credit institutions, investment firms and management companies of undertakings for collective investment and the Royal Decree of 23 September 1992 on the consolidated annual accounts of credit institutions, investment firms and management companies of undertakings for collective investment. Both Royal Decrees explicitly state that "*Since not all institutions prepare consolidated annual accounts, it is indispensable that the same obligation to publish information is imposed as explanatory notes to the statutory annual accounts. Institutions preparing consolidated annual accounts are exempt from the obligation to publish the information as explanatory notes to their statutory annual accounts*."

[78] The Bulgarian law places the reporting obligation on the investment firm/bank on a consolidated basis. The ultimate parent is then required to comply with the reporting requirement. The disclosure reports are part of the annual financial statements of the companies (and the information therein is provided as an aggregate data). Article 31 (2) of the Accountancy Act requires the parent company to prepare consolidated financial statements regardless of the location of the headquarters of its subsidiaries. Consequently, it could be concluded that the subsidiary institution is not required to report, given that it will be within the scope of its parent's CBCR disclosure. However, in cases where a subsidiary established in Bulgaria is considered as an 'institution' under the Bulgarian law, there are no provisions to prevent the double disclosures. This was confirmed by the stakeholder interviewed (auditing firm).

[79] Pursuant to Article R.511-16-2 of the Monetary and Financial Code as introduced by Decree n°2014-1657 of 29 December 2014, institutions are exempt from the obligation to disclose information (i) when this information is published by their consolidating entity established in France or (ii) when this information is published by their consolidating entity established in another Member State of the European Union under an equivalent arrangement.

[80] Section 26a(1) phrase 2 *Gesetz über das Kreditwesen* (Banking Act) states that "*if the CRR institution is included in the consolidated accounts of another parent undertaking with head offices in a member state of the European Union or in a signatory state to the Agreement on the European Economic Area, which is subject to the requirements of Directive 2013/36/EU, it shall not be required to make the disclosures pursuant to sentence 2 [of that same provision which contains the disclosure requirement under Article 89 of CRD IV]*".

[81] According to Resolution No 03-136 of the Bank of Lithuania Board adopted on 31 July 2014 and Resolution No 03-94 of the Bank of Lithuania Board adopted on 11 June 2015, CBCR disclosure must be done together with the institution's annual financial statement. There is no requirement to do CBCR disclosure together with the institution's annual consolidated financial statement.

[82] BR/07/2014 Publication of Annual Report and Audited Financial Statements of Credit Institutions Authorised under the Banking Act 1994 and Part BI: Rules Applicable to Investment Services Licence Holders which qualify as MiFID Firms of the Investment Services Rules for Investment Services Providers, provide that "credit institutions shall disclose on a consolidated basis" and "license holders shall disclose on a consolidated basis". Therefore, any subsidiary institution will not be required to report and will not fall within the scope of CBCR.

[83] The Explanatory Memorandum to the Decree Execution Publication Requirements of the Capital Requirements Directive Decree 11 September 2014 provides that: "*For the record, the following should be noted with respect to situations where disclosure has already taken place in another manner. If a bank or investment firm is part of a group, it shall be deemed to have complied with these obligations if the parent company has published the information required to be published under Articles 3(1) and 4(1) on a consolidated basis for all group members and for each state in which a group member is located and has disclosed where such information can be found. The ordinary rules of accounting law apply here. If the disclosure requirement has already been met in the Netherlands or in another Member State in accordance with the implementation of Article 89 of the CRD in that Member State, a bank or investment firm need not disclose the relevant information again, provided that the firm discloses, for example on its website, where that information can be found*."

[84] The Swedish law provides that the requirement to report as set out in the legislation transposing Article 89(1) CRD IV is binding only on the parent institution and applies to all jurisdictions where it carries out activities. There is therefore no obligation for a subsidiary institution to make a double disclosure.

Conclusions

While most Member States (with the exception of SK, EE, SI and SE) explicitly or implicitly legislate that the country-by-country information must be disclosed on a consolidated basis, Member States are very much divided as to which scope of consolidation (prudential versus accounting) should be used. In practice, most of the banks seem to report in line with the accounting basis.

3.3 Means of disclosure

Article 89(4) CRD IV states that "[t]he information referred to in paragraph 1 […] shall be published, where possible, as an annex to the annual financial statements or, where applicable, to the consolidated financial statements of the institution concerned". In addition, Article 96 CRD IV on "maintenance of a website on corporate governance and remuneration" provides that "[i]nstitutions that maintain a website shall explain there how they comply with the requirements of Articles 88 to 95". The disclosure requirements can thus be included as an annex to the (consolidated) financial statements, can be reconciled with the institution's existing consolidated financial statements and must, additionally, be published on the institution's website (for example as part of the Corporate Social Responsibility report). Any institution with a website on corporate governance will have to refer to the existence of their country-by-country report (and potentially where it can be found).

The Directive does not provide guidance on the format or template of the disclosures and there is not a standardised format or template available either. Institutions may thus develop their own templates in order to ensure consistency with their own accounting system. This could lead to varying reporting formats, including across institutions from the same country, and hence to inconsistent data reporting.

Legal transposition

Most of the Member States (AT, BE, BG, HR, CY, CZ, FR, DE, EL, IE, IT, LV, LT, MT, NL, PL, PT, RO, SI, ES) require that information is published as an annex to the financial statements or, where applicable, to the consolidated financial statements of the institution concerned. A few countries (**IT, BG, NL, PL**) explicitly allow institutions to additionally publish information as a report separate from the financial statements on their websites. In **Luxembourg**, institutions publishing non-consolidated financial statements are obliged to publish CBCR in general but are not formally obliged to do so as an annex to their annual non-consolidated financial statements. Four other Member States (**EE, FI, SK, SE**) are less clear with regard to the means of disclosure and rather generally refer to, respectively, "on the date and location of the disclosure of the annual report"[85], "together with its financial statement"[86], "in the annual report"[87], and "in its annual accounts"[88]. **Denmark** does not provide any guidance as to how the country-by-country information needs to be disclosed. Finally, **Hungarian** legislation does not require the information to be published as an annex to the (consolidated) financial statements of the institution concerned. Instead, according to Hungarian recommendations, the information to be disclosed under Article 89(1) - as well as other disclosure requirements - is published in a single, separate document[89]. That

[85] Section 92, Disclosure of reports and other information of the Credit Institutions Act (*Krediidiasutuste seadus*), available at: https://www.riigiteataja.ee/akt/104012021033?leiaKehtiv

[86] Chapter 10, Section 12(2) of the Finnish Act on Credit Institutions.

[87] Article 37(6) of Act No 483/2001, and Article 77(2) Act No 566/2001.

[88] Article 25 of Chapter 5 of the FSA's Ordinance and general advice on annual accounts in credit institutions and investment firms, 2008:25 (*Föreskrifter och allmänna råd om årsredovisning i kreditinstitut och värdepappersbolag*), available at: https://www.fi.se/sv/vara-register/sok-fffs/2008/200825/

[89] Recommendation No 8/2017 (VIII. 8.) of the Magyar Nemzeti Bank on the General requirements pertaining to the disclosure practices of credit institutions and investment firms, available at: 8-2017-altalanos-nyilvanossagra-hozatali-mod.pdf (mnb.hu)

document shall contain a summary table indicating where the information related to this disclosure requirement can be found within the document. Additionally, the document has to be placed "in a central place on the institution's website or on the Internet platform on which it publishes the annual accounts".

Practical implementation

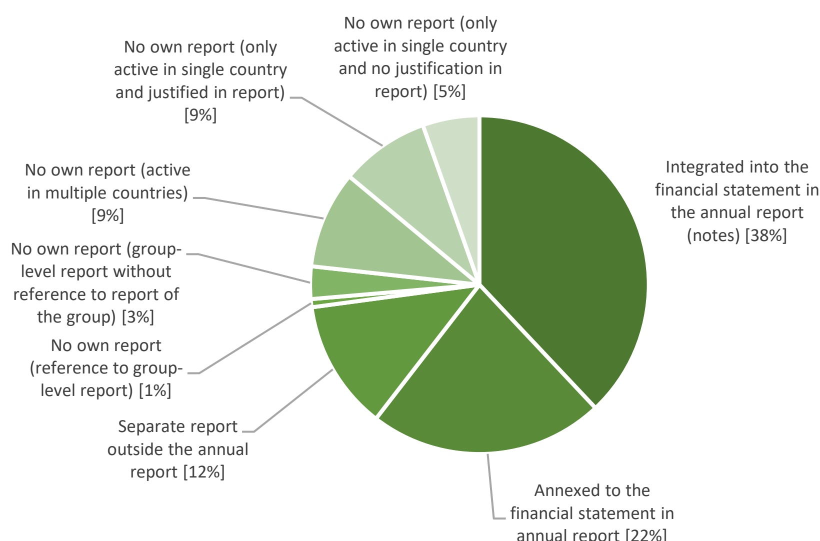
The majority of the banks in the sample disclose the country-by-country report either in the integral part of the financial statement also referred to as a note to the financial statement (38%) or as an annex to the financial statement (22%) (see Figure 3). A minority of the banks (12%) additionally publish the country-by-country report in a document separate from the annual report on their corporate website.

The remaining banks (about a quarter) did not prepare and disclose an own country-by-country report. There are some banks that refer to the country-by-country report at group level (1%) or are part of a group that discloses a country-by-country report (3%). This way the key CBCR information can still be obtained.

There are also some banks (9%) that are active in multiple countries which neither disclose a country-by-country report nor have a reporting parent from which the information can be obtained.

The remaining non-reporting banks (14%) are active in just a single country, for which CBCR is of limited to no relevance. Indeed, nearly all the information can be found in the financial statements, except for subsidies - which means one needs some indication about the CBCR to comply with the CBCR obligation. In addition, the employees are in principle covered in the financial statements, though in some instances they are measured in head-count rather than FTE. Most of the banks active in a single country justify the non-reporting in the annual report (9%), while others do not justify the absence of a country-by-country report (5%).

Figure 3: Means of disclosure (share of banks)



Note: The aggregate shares of banks presented between parenthesis on the labels can deviate from 100% due to rounding.
Source: Authors' elaboration (2021)

Conclusions

Most of the Member States require information to be published as an annex to the financial statements or, where applicable, to the consolidated financial statements of the institution

concerned. This is confirmed by the information from the banks in the sample, which mostly include the CBCR in their annual report. There are a minority of banks active in multiple countries, which are not reporting. Further, there are some banks active in a single country, which do not provide a justification for this.

3.4 Indicators

According to Article 89(1) CRD IV, the following information (hereafter called "indicators") needs to be disclosed on a country-by-country basis:

a) Name(s), nature of activities and geographical location;
b) Turnover;
c) Number of employees on a full-time equivalent basis;
d) Profit or loss before tax;
e) Tax on profit or loss;
f) Public subsidies received.

This subsection looks at how each of these indicators has been transposed in all EU Member States and how these terms have been interpreted in practice. In addition, this subsection will present an overview of other indicators which are included in the country-by-country reports.

3.4.1 Name(s), nature of activities and geographical location

The first indicator in the country-by-country report following Article 89(1)(a) CRD IV consists of three elements, including i) names, ii) the nature of activities, and iii) geographical location. CRD IV does not specify how this first indicator needs to be fulfilled and, hence, leaves ample room for interpretation by the banks, especially on the nature of the activities, which might include self-chosen categories, such as retail, corporate, wholesale, leasing, property development, etc.

Legal transposition

The requirements under Article 89(1)(a) CRD IV have been transposed (almost) literally in all Member States. In **Slovakia**, the term "name" was added, in a post-2014 legislative change, to the list of information to be disclosed by banks, but the term is still missing from the list of information to be disclosed by investment firms[90].

Except for **Finland**, the national transpositions do not provide any further instructions as to the interpretation of this first indicator. The Finnish transposition of point (a) has specified that "the state of the branch or subsidiary, the names of the subsidiaries and the nature of the business operations carried out in the host Member State" should be disclosed[91].

Practical implementation

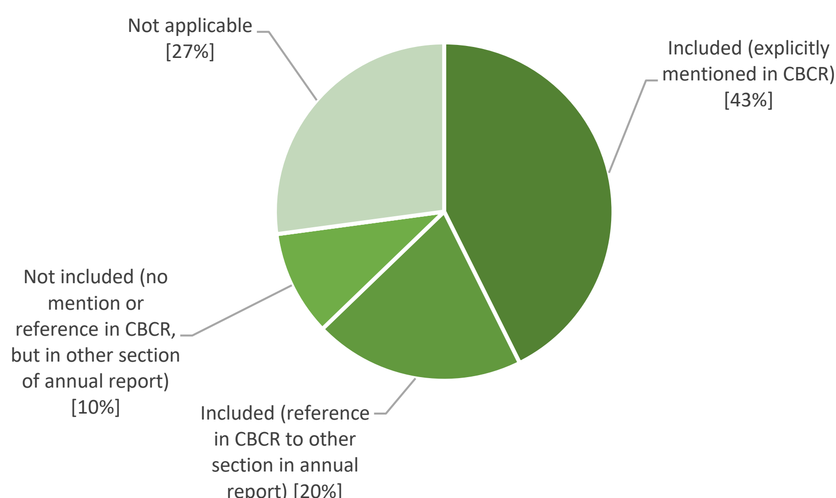
A large minority of the banks in the sample (43%) include explicit mentions of the entities active in the countries covered in the country-by-country report (see Figure 4). The other banks either include a reference to another part of the annual report with this information (20%) or include it in another part of their annual report without reference (10%). The

[90] The term "name" was added by Act No 340/2020 Coll. which came into force on 29 December 2020, available at: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/340/20201229

[91] Section 12(2) point 1, Chapter 10 of Act on Credit Institutions.

banks disclosing a country-by-country report did not include the legal entities or a reference to the section indicating the legal entities, but the information on subsidiaries is available in other sections of the annual report. Although the information is indeed disclosed, it means that the information is more fragmented and difficult to assess. Moreover, these dedicated sections often do not include information on the branches, which are not necessarily considered by all banks in the first place (see section 3.4.2 on turnover).

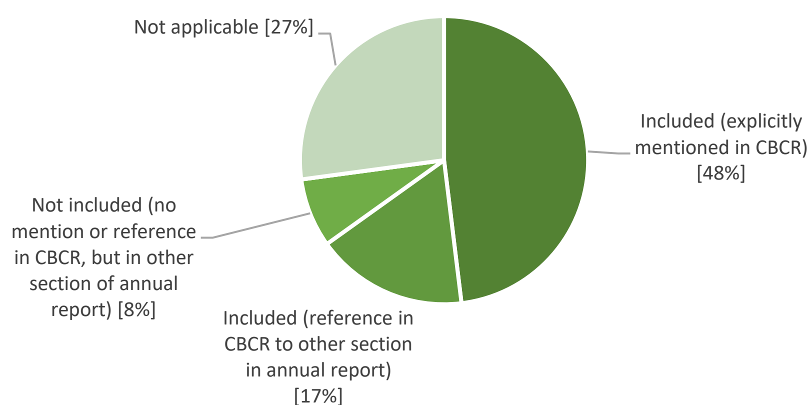
Figure 4: Indication of entity name in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

A slightly larger share of the banks (48%) in the sample includes a description of the nature of the activities in the country-by-country report (see Figure 5). Most of the other banks either do not disclose a country-by-country report (27%) or include a reference to another part of the report (17%). Nevertheless, a significant minority of the banks (8%) do not mention the nature of the activities in the various countries in the country-by-country report. In all cases, it would be possible to obtain this information from other parts of the annual report, though not always specified at country level.

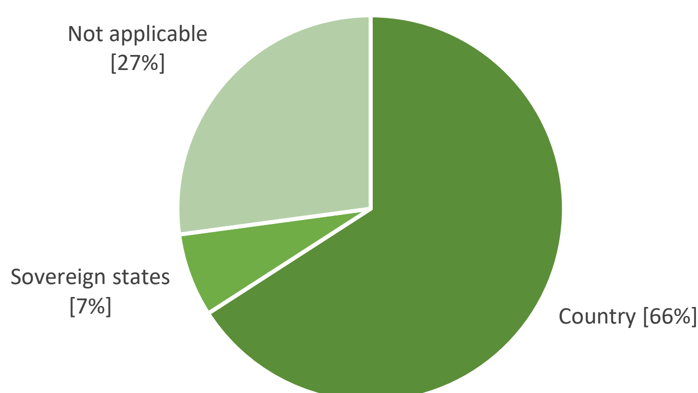
Figure 5: Indication of nature of activities in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

The large majority of the banks in the sample (66%) provide the information for each country in which they are active (see Figure 6). However, a minority of the banks (7%) report the indicators for some countries combined by the sovereign state, instead of by country. For example, these banks consider their activities in the Channel Islands (Guernsey, Isle of Man and Jersey) and/or Cayman Islands as part of the United Kingdom, rather than as separate countries. The treatment of overseas territories, self-governing dependencies and other areas within the sovereignties with substantial autonomy as separate countries is important for the effectiveness of the country-by-country report. These countries often concern tax havens and/or offshore financial centres offering low or no corporate taxes, ease the creation of businesses and/or limit disclosure on corporate owners. The remaining about a quarter of the banks do not provide a country-by-country report (27%).

Figure 6: Definition of country used in country-by-country report [share of banks]

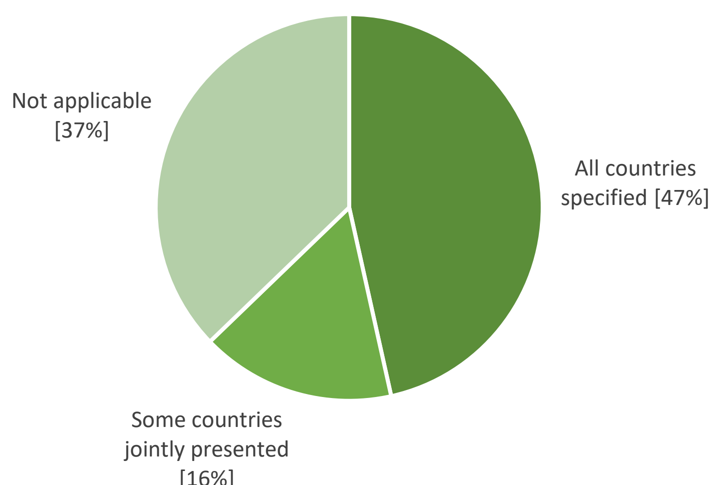


Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

Nearly half of the banks in the sample (47%) disclose the requested information by country (see Figure 7). Nevertheless, about one in six of the banks (16%) aggregates the information for some of the countries in which they are active under a single entry instead of for each country separately. For example, a large Greek bank includes their activities in the UK and British Virgin Islands under "Other countries" in the country-by-country report. This involves, in most instances, countries in which the activities of the bank are relatively small in size. These categories also include tax havens[92] and offshore financial centres. The countries covered in these aggregated categories are, by most banks, listed in a note, but there are also banks which do not disclose the names of the countries. However, this is not always clear as not all banks disclose the countries that are covered under this aggregated category in the country-by-country report. The other banks either do not disclose a country-by-country report or are just active in a single country (37%).

[92] Both the cooperative jurisdictions on the EU watch-list and the jurisdictions on the EU list of non-cooperative jurisdictions as of February 2021 were considered. Available at: https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/ .

Figure 7: Country specification in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report or are just active in a single country.
Source: Authors' elaboration (2021)

Conclusions

Overall, all Member States have transposed the requirement to provide the names, nature of activities, and geographical location. In practice, a large minority of the banks in the sample provide the names (30%) and nature of the activity (25%) in other parts of the annual report rather than the country-by-country report, which complicates the collection and assessment of the information. Further, a significant minority of the banks do not provide the information for each separate country, either because they report by sovereignty or aggregate the information for some countries. In some instances, this also includes activities in tax havens and offshore financial centres.

3.4.2 Turnover

The second indicator in the country-by-country report following Article 89(1)(b) CRD IV requires covering "turnover" annually by Member State and third country.

The term "turnover" is not a widely used term in the financial services sector and should be understood as 'net banking income' for the banking sector. This has been confirmed by the EBA in Q&A 2014_1249: "For example, for credit institutions, total net banking income would seem the most appropriate definition, i.e., total net income before impairment and operating expenses, but including net interest income, net fees and commissions income, net trading income, and other operating income"[93]. The EBA further states that "[f]or the purposes of Article 89(1) CRD IV, the definition of turnover should be coherent with the institution's audited financial statements. Institutions should clarify in their disclosure precisely which definition of turnover has been used and explain any differences in its annual financial statements".

Intra-group transactions form a further challenge for turnover. Intra-group transactions can be defined as financial or commercial transactions which involve two companies of the

[93] EBA, Q&A 2014_1249 https://eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2014_1249

same group simultaneously[94]. In the consolidated financial statements, the intra-group transactions are eliminated. To allow for reconciliation between the CBCR and the consolidated figures, the intra-group transactions need to be eliminated in the country-by-country report. There are basically two approaches to the exclusion: either the intra-group transactions are excluded from the receiving country, or a separate line for the eliminations is specified. Neither the CRD IV legislation nor the EBA Q&A clarify how the intra-group transactions should be treated in the country-by-country report.

Legal transposition

All Member States have transposed in their national legislation Article 89(1)(b) CRD IV. Almost all Member States have (almost) literally transposed the term 'turnover'. There are six Member States that transposed a more specific definition:

- In **Austria** the term "net income from interest plus operating revenues" has been used[95]. This could be considered as an additional requirement, considering that more detail is provided in requiring net income from interest to be distinguished from operating income, but could also add confusion on the interrelation of the two sets of figures.
- In the **Czech Republic,** the national transposing measures concerning banks and credit unions refer simply to "turnover", while the national transposing measure concerning investment firms refers to "annual net turnover"[96]. However, no further explanations or guidance have been provided.
- In **Estonia**, the national transposing legislation alternatively obliges the publishing of information regarding "sales revenue"[97]. The term "sales revenue" has been defined as the revenue from sales of products, goods and services during the reporting period, while the term "turnover" has not been defined in Estonian legislation.
- In **Finland** the wording "the aggregate amount of business profits" is used instead of turnover[98].
- In **France** the term "turnover and net banking income" was used[99]. The term 'net banking income' applies to banks, and the term turnover to investment firms.
- **Poland** uses the term "turnover" in relation to banks, and the term "revenue" in relation to investment firms[100].

Turning to the treatment of intra-group transactions, there is in general no further framework or guidance provided in the national transposition. Only **Slovenian** national legislation has explicitly dealt with this question by requesting the disclosure of the "turnover from the income statement before performing consolidation entries and methodology"[101]. Hence, the turnover figures relate only to the turnover before performing consolidation

[94] Taken from: https://www.sigmaconso.com/en/intra-group-transactions-identifying-differences/
[95] Section 64(1)(18) Austrian Banking Act.
[96] The national transposing measures concerning banks (Act No 21/1992, Sec. 11c (1)(b)) and credit unions (Act No 87/1995, Sec. 7b (5)(b)) refer simply to "turnover", without further specification. The explanatory memorandum to Act No 135/2014, which transposed CRD IV into the Czech law in 2014, does not provide any further explanation or guidance to inform interpretation of the term "turnover". The national transposing measure concerning investment firms (Act No 256/2004, Sec. 16a (5) (b)) refers to "annual net turnover". The explanatory memorandum to Act No 204/2017, which introduced the current wording, states that the change in wording was made to bring it in line with new terminology of the Accounting Act (Act No 563/1991).
[97] Credit Institutions Act, Section 92 (8), clause 2.
[98] Act on Credit Institutions: Chapter 10, Section 12(2), point 2.
[99] Monetary and Financial Code, Art. L. 511-45, para. III, point 2.
[100] The Banking Law Act, Art. 111a(2) point 2) (applicable to banks) uses the term 'turnover' and the Act on Trading in Financial Instruments, Art. 110w(2) point 2), (applicable to brokerage houses) uses the term 'revenues'.
[101] Banking Decision, Art. 20, para. 2, point (c).

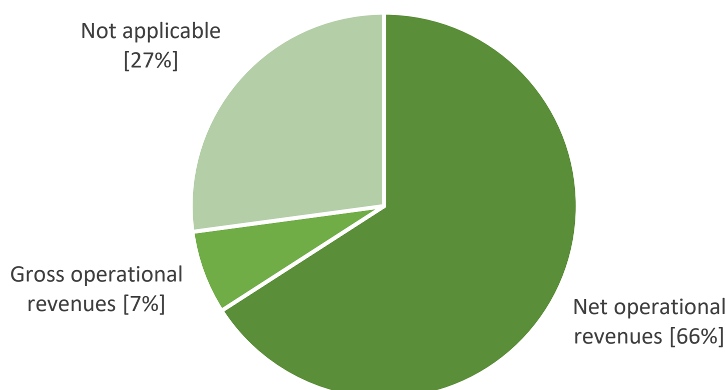
entries, therefore they include intra-group transactions. Furthermore, **Finland** stated explicitly that "if a credit institution or its holding company has at least one branch and one subsidiary or at least two subsidiaries in the host country, any significant profits gained, and costs incurred from the business transactions between the group companies operating in the host Member State shall be deducted from this aggregate amount"[102].

Practical implementation

All the banks in the sample disclose turnover in the country-by-country report (see Figure 8). However, there are many differences used by the banks which are often not explicitly defined in the country-by-country report. The analysis in this report is based on an attempt to reconcile the aggregate turnover in the country-by-country report to the entries in the profit and loss account. This shows that there are many specific differences in the definition (gross versus net revenues, continued versus all operations, banking versus all revenues, treatment of equity method investments, etc.).

The main difference in terms of amounts is whether the turnover covers the gross revenues (gross interest income, gross commission income, etc.) or net revenues (net interest income, net commission income, etc.). In practice, the large majority of the banks in the sample report net revenues (66%), which is the most common equivalent for turnover used for banks. In addition, just over one in twenty banks in the sample report gross revenues (7%). The remaining banks do not disclose a country-by-country report.

Figure 8: Type of revenues used in country-by-country report [share of banks]



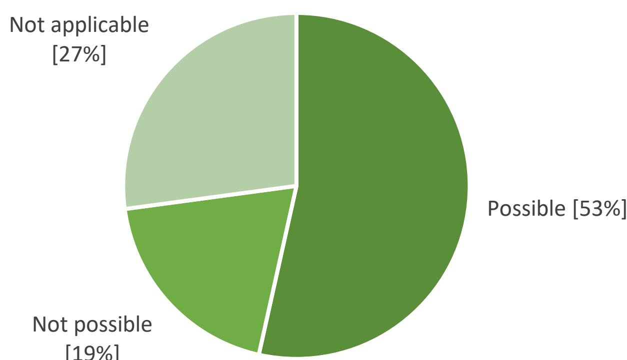
Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

The reconciliation of the turnover in the country-by-country report with the items in the financial statement (e.g. [net] interest income, [net] commission and fees income, etc.) enhances the understanding. The reconciliation of the turnover is possible for the majority of the banks in the sample (see Figure 9) but is not straightforward due to the differences in the definitions mentioned above. For about one fifth (19%) of the banks it was not possible to reconcile the figures despite various attempts. This is due to a combination of

[102] Act on Credit Institutions: Chapter 10, Section 12(3).

different factors including the lack of a definition, different bases, rounding, and no adjustment for intra-group effects. The remaining banks in the sample were not publishing a country-by-country report.

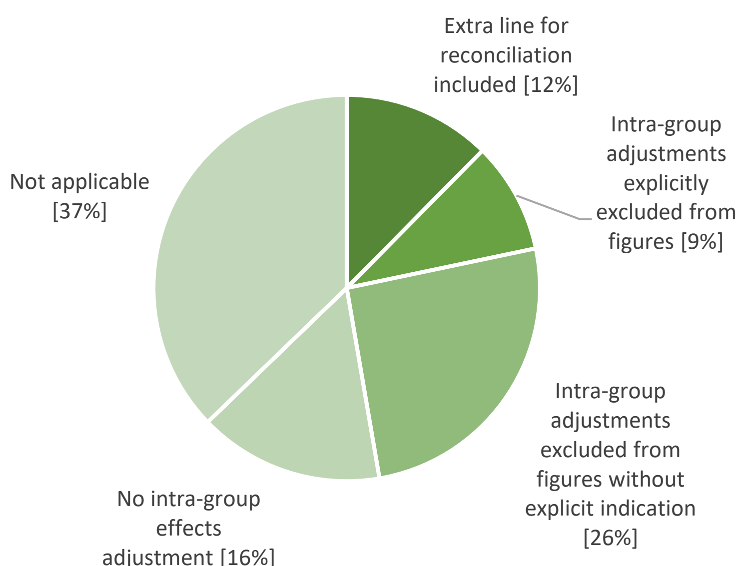
Figure 9: Reconciliation of turnover in country-by-country report [share of banks]



Notes: The aggregate shares of banks presented between parenthesis on the labels can deviate from 100% due to rounding. "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

The majority of the banks do not report the intra-group transactions (see Figure 10). Almost a quarter of the banks in the sample clearly indicate the intra-group adjustments with a separate line in the country-by-country report (12%) or explicit exclusion from the figures (9%). The remaining banks either exclude the intra-group transactions without indication (26%) or do not indicate intra-group adjustments (16%). The remaining banks do not disclose a country-by-country report or are active in just one country (37%).

Figure 10: Treatment of intra-group transactions in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report or are just active in a single country.
Source: Authors' elaboration (2021)

Conclusions

Member States have in general literally transposed the "turnover" indicator in their national legislation. In practice, the large majority of the banks seem to use net revenues, which is in line with the EBA Q&A. Nevertheless, there are significant differences in the applied definitions, which are often difficult to retrieve in the absence of explicit definitions and indication of the intra-group adjustments. The treatment of intra-group adjustments is also not defined in nearly all Member States. The differences in definitions complicate the comparison of the figures among banks.

3.4.3 Number of employees on a full-time equivalent basis

The third indicator in the country-by-country report following Article 89(1)(c) CRD IV requires covering the "number of employees on a full-time equivalent basis" annually by Member State and third country. Traditionally there are two definitions for number of employees: headcount and full-time equivalent (FTE). Moreover, the number of employees can be provided as an average for the year or only at the end of the year.

Legal transposition

Article 89(1)(c) "number of employees on a full-time equivalent basis" has been transposed (almost) literally in all Member States. More specifically, **Finland** has transposed Article 89(1)(c) CRD IV as "the aggregate amount in man-years of personnel in the business operations"[103].

The national legislation hardly provides a specific definition of the term. Only a few Member States have included some further elaboration in their transposing provision(s):

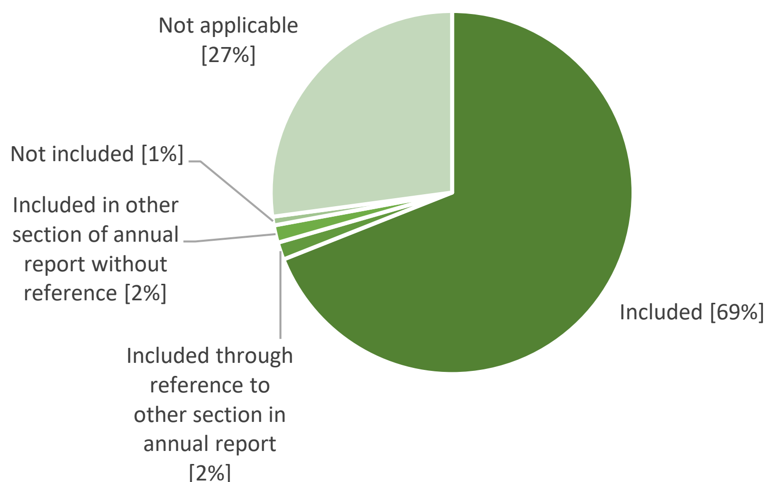
- **Romanian** legislation states that a full-time working duration consists of 8 hours per day and of 40 hours per week[104].
- The **Czech Republic** original requirement towards investment firms to disclose the "number of employees on a full-time equivalent basis" has been replaced by a requirement to disclose the "average number of employees"[105]. The explanatory memorandum notes that the change is made in order to bring the wording in line with new terminology of the Accounting Act. A similar change did not take place with regard to banks and credit unions.

Practical implementation

Almost all the banks in the sample with a country-by-country report provided the number of employees across countries (see Figure 11). The large majority included the number of employees in the country-by-country report (69%), while a small minority of the banks include a reference to another section in the annual report (2%) or include the information in another part of the annual report without reference (2%). The remaining 1% of the banks with a country-by-country report did not disclose the number of employees. The remaining about a quarter of the banks (27%) did not disclose the country-by-country report.

[103] Act on Credit Institutions: Chapter 10, Section 12 (2), point 3.
[104] Labour Code, Article 112(1) of Law No. 53/2003.
[105] Act No 256/2004, Sec. 16a (5) (c).

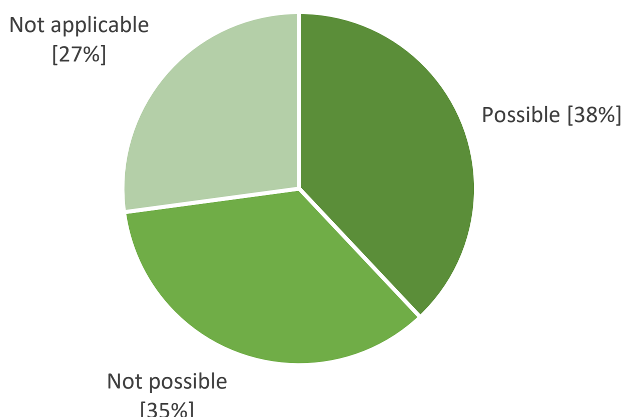
Figure 11: Indication of number of employees in country-by-country report [share of banks]



Notes: The aggregate shares of banks presented between parenthesis on the labels can deviate from 100% due to rounding. "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

The number of employees can be reconciled for the large minority of the banks in the sample (38%), i.e. the sum of the number of employees in the country-by-country report is identical to the total number of employees in the notes of the financial statements. For the other banks, the number of employees could not be reconciled (35%) or the banks did not disclose a country-by-country report (27%). The relatively high share of number of employees that cannot be reconciled is almost exclusively due to a difference in definitions between the country-by-country report and the financial statements. More specifically, the country-by-country report almost always provides the number of employees expressed in FTE, while the financial statements of these banks provide the number of employees based on headcount and/or the annual average number of employees.

Figure 12: Reconciliation of number of employees in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

Conclusions

The number of employees on an FTE basis has been transposed (almost) literally in all Member States. The national transposing provisions generally do not provide further guidance, which in principle would allow banks to provide the number of employees as annual average or end of year. In practice, however, most banks in the sample provide the number of employees for the end of the year on an FTE basis. Although this makes the figures more comparable across banks, it becomes more difficult to reconcile the figures. Indeed, most of those banks of which the number of employees could not be reconciled are expressed in headcount or the annual average.

3.4.4 Profit or loss before tax

The fourth indicator in the country-by-country report following Article 89(1)(d) CRD IV requires covering "profit or loss before tax" annually by Member State and third country.

The definition an institution would give to 'profit or loss before tax' will be dependent on whether the institution reports under EU adopted IFRS, follows the generally accepted accounting principles (GAAP), the currency used to report, the way in which profits are allocated to branches and partnerships, etc.

Legal transposition

All Member States have transposed the indicator "profit or loss before tax" (or similar) in their national legislation. As with most indicators, national legislation generally does not provide a definition of this term. One would expect banks to follow the same definition of "profit or loss before tax" as for the preparation of their financial statements. In a few Member States (**BE**[106]**, IT**[107]), the national legislation explicitly refers to the relevant entries in the financial statements to further define the term. **Finland** specifies that "the aggregate amount of pre-tax profit or loss" needs to be disclosed[108].

Practical implementation

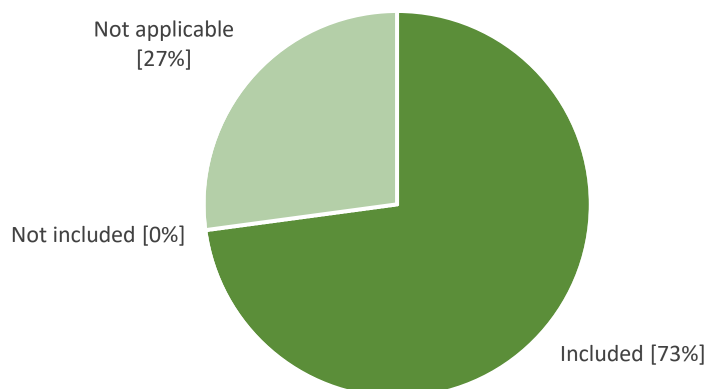
In practice, the profit or loss before tax also seems a relatively straightforward indicator in terms of definition and coverage. In fact, the profit or loss before tax is provided by all banks in the sample which disclose a country-by-country report (73%). Indeed, all the remaining banks have not disclosed a country-by-country report (27%).

[106] Section XXXI of the Annex in the Royal Decree of 23 September 1992 on the annual accounts of credit institutions, investment firms and management companies of undertakings for collective investment adds: "*The profit (loss) before tax corresponds to the amount included in heading XIX of the schedule of the profit and loss account*." Article 6bis of Royal Decree of 23 September 1992 on the consolidated annual accounts of credit institutions, investment firms and management companies of undertakings for collective investment adds: "*The institutions shall specify, after the aforementioned data, the definitions used for their calculation. Those definitions should be consistent with the institution's consolidated financial statements*."

[107] The transposing provision in Circular 285/2013(Part I, Title III, Chapter 2, Annex A-Information to be published) specifically refers to the term "profit or loss before tax" and adds that it should be understood as "the sum of item 250 'Profit (loss) on disposal of investments' and 280 'Profit (loss) after tax of current operations' (the latter before tax) of the income statement referred to in in Circular No. 262/2005". For the consolidated financial statements, the items are respectively 280 'Profit (loss) on disposal of investments' and 310 'Profit (loss) after tax of current operations' (the latter before tax) of the income statement (Appendix B, para. B.2.1).

[108] Act on Credit Institutions: Chapter 10, Section 12 (2), point 4.

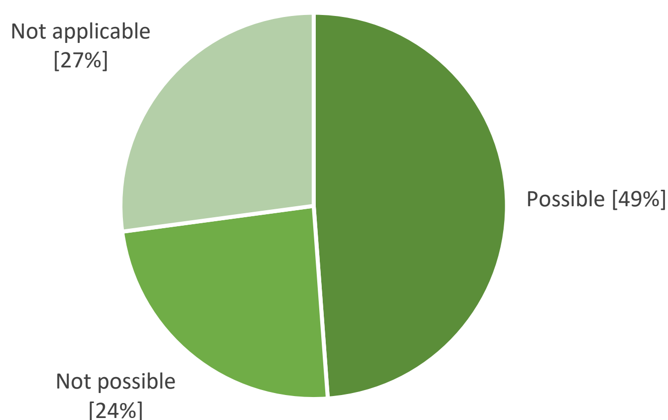
Figure 13: Indication of profit or loss before tax in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

Although the definition for the profit or loss before tax is rather straightforward, the aggregate amounts of profit or loss before tax in the country-by-country reports could only be reconciled to the profit before tax in the profit-and-loss account for about half of the banks in the sample (49%). The other banks have either not disclosed a country-by-country report (27%) or it is not possible (24%). The reconciliation of the latter group was not possible because of a variety of reasons, including treatment of intra-group transactions, discontinued operations and equity method investments, as well as a few banks that divert from the standard definition and exclude some items such as bank taxes and risk costs.

Figure 14: Reconciliation of profit or loss before tax in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

Conclusions

The indicator "profit or loss before tax" is generally literally transposed in the national legislation. In practice, the profit or loss before tax is disclosed in all the country-by-country reports and can in most cases be reconciled with the profit or loss before tax according to the financial statements (i.e. 73% publish a country-by-country report and about two-thirds of those can be reconciled).

3.4.5 Tax on profit or loss

The fifth indicator in the country-by-country report following Article 89(1)(e) CRD IV requires covering "tax on profit or loss" annually by Member State and third country.

The definition of "tax on profit or loss" (or "taxes paid", as provisioned in the recitals to CRD IV) will first of all depend on whether this rule is limited to taxes based on corporate income or whether other taxes paid on profits or losses should also be taken up. In addition, there are several interpretations as to the basis of the tax figures to be disclosed. In respect of tax, institutions should be able to identify to which tax authorities the current tax has been paid/is payable. According to the EBA, Q&A 2014_1043[109], "it seems that transparency and comparability are best served when institutions' disclosures include tax information separately on a cash basis (taxes paid) and on an accrued basis (taxes accounted for) which in the latter case would only include current tax expense and not include deferred taxes or provisions for uncertain tax liabilities. Where appropriate, institutions should explain any differences with the financial statements, in the interest of transparency and comparability".

It is noted that the International Financial Reporting Standards include a specific standard on taxes, i.e. *IAS 12 Income taxes.* IAS 12 sets the accounting treatment of all taxable profits and losses, both national and foreign and requires, first of all, that financial statements are prepared on an accrual basis. In particular, 'current tax' under IAS 12 is defined as the amount of income taxes payable/recoverable in respect of the taxable profit/tax loss for a period. It is the tax that the entity expects to pay/recover in respect of a financial period. Income taxes, as defined in IAS 12, include current tax and deferred tax. As to uncertain tax liabilities, the IFRS Interpretations Committee concluded that an entity is required to present uncertain tax balances as current or deferred tax assets or liabilities[110].

Legal transposition

All Member States have transposed the indicator "tax on profit or loss" (or similar) in their national legislation. A few Member States have provided additional clarifications and/or definitions of this indicator:

- **Denmark** refers to "taxes accrued in respect of current year profits/losses pursuant to the principle of accrual"[111].
- **Finland** refers to "the aggregate amount of income tax concerning the financial period"[112].
- **France** refers to the "amount of tax on profits payable by the establishments, distinguishing between current tax and deferred tax"[113].

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[109] Available at https://eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2014_1043
[110] https://www.ifrs.org/news-and-events/updates/ifric/2019/ifric-update-september-2019/#9
[111] Executive Order No. 281 of 26/03/2014 on the financial reporting for banks, investment firms and others (*BEK nr 281 af 26/03/2014 - Finansielle rapporter for kreditinstitutter og fondsmæglerselskaber m.fl.),* Section 124a(1) point (5).
[112] Act on Credit Institutions: Chapter 10, Section 12 (2), point 5.
[113] Monetary and Financial Code, Article L. 511-45, para. III, point 5°

- **Hungary** has specified that "the amount of tax, in particular corporate tax, foreign taxes that may be included therein, and any foreign tax where the income on which it is based is exempt from corporate tax under international agreement, and the amount of small business tax" needs to be disclosed on a country-by-country basis[114].
- **Italy** has explicitly referred to the relevant entries in the financial statements[115].

In all other Member States, the "tax on profit or loss" disclosed in the country-by-country report is assumed to follow the same definition as used for the preparation of the financial statements, but many country experts have found ambiguity as to which taxes were reported upon. It was not only unclear whether the institutions should disclose taxes accrued or taxes paid (or both), but also whether these should include both current tax and deferred tax expenses or whether they should be reported upon separately. In particular, it could not be verified in three Member States (**BG**[116]**, IE**[117]**, LU**[118]), which tax on profit or loss should be reported upon in the country-by-country report.

Practical implementation

In practice, nearly all the banks in the sample include taxation on profit or loss in the country-by-country report (see Figure 15). Indeed, almost three quarters of the banks in the sample (71%) cover taxation of profit or loss in the country-by-country report. Some banks provide both current and deferred corporate tax. There are about one in fifty banks in the sample (2%) which did not include the taxes. One of these banks included the profit before and after tax instead, which allows calculation of the tax, while the other banks included no information. The remaining about quarter of the banks (27%) did not disclose a country-by-country report.

[114] Article 87(2) of Act C of 2000 on Accounting (*2000. évi C. törvény a számvitelről, Szmtv*.), available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=49554.392137

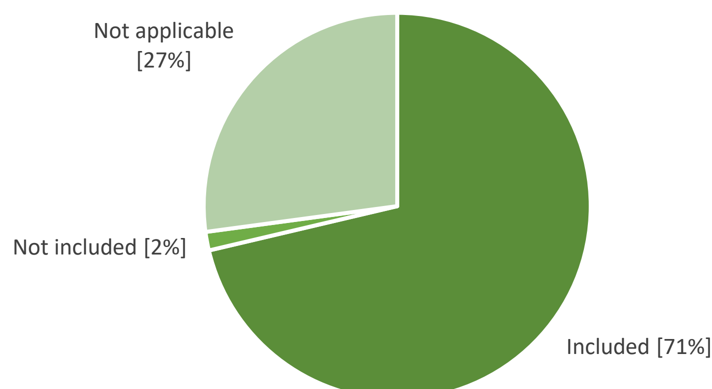
[115] According to Circular 285/2013 Part I, Title III, Chapter 2, Annex A-Information to be published, point e) "Taxes on profit or loss are to be understood as the sum of the taxes referred to in item 260 of the income statement as per Circular No. 262 and the income taxes relating to groups of assets held for sale." For the consolidated financial statements, reference is made to item 290 of the profit and loss account. (Appendix B, p. B.2.1).

[116] Bulgarian law requires the banks (credit institutions) and investment firms to report the taxes charged on the financial profit or loss. It does not, however, define this term and there are no recommendations or guidelines on how this definition should be interpreted. Under the Corporate Income Taxation Act, the corporate tax is due on the profit (Article 19) and only refers to current taxes. Article 34 of the Accountancy Act requires the banks and investment firms to prepare their financial statements according to the International Accounting Standards. The national law does not specify which tax on profit or loss is generally reported upon or if the tax should be disclosed against the jurisdiction of the branch or the parent jurisdiction. It has been confirmed by the national stakeholder interviewed (auditing firm) that the corporate tax, according to the Corporate Income Taxation Act is reported.

[117] The term "tax on profit or loss" is not defined in the Irish transposing legislation. There is a general provision covering the use of terms used in the CRD IV: "*A word or expression which is used in these Regulations and is also used in the Capital Requirements Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Capital Requirements Directive*."

[118] Law on the Financial Sector, Art. 38-3(1)(e) uses the term "tax on profit or loss". No definition of this notion is available in the transposition legislation.

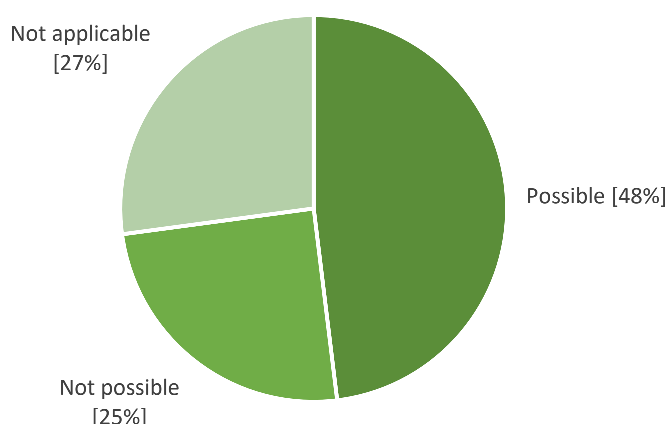
Figure 15: Indication of tax on profit or loss in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

The reconciliation of the tax on profits and losses presented in the country-by-country report with the amount of taxation in the financial statement was possible for almost half of the banks in the sample (48%) (see Figure 16). For about one quarter (25%) of the banks it was not possible to reconcile the tax amounts with the amount in the financial statements. This is due to a combination of factors including the reporting of just current and/or deferred tax, adding special bank tax, only covering continued operations, treatment of equity method investments. The remaining banks in the sample were not publishing a country-by-country report (27%).

Figure 16: Reconciliation of tax on profit or loss in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

Conclusions

All Member States have transposed the requirement on taxation (almost) literally in their national legislation. The main issue concerns the definition of taxation on profits, whether this should be the tax on an accrual or cash basis. The differences in definitions hamper the ability to compare the figures across countries and banks.

3.4.6 Public subsidies received

The sixth and last indicator in the country-by-country report following Article 89(1)(f) CRD IV requires covering "public subsidies received" annually by Member State and third country. The term "subsidy" is not defined in CRR/CRD, nor has it been further interpreted by the EBA. Generally speaking, a public subsidy is a financial contribution made by (or on behalf of) a government or a public body that gives the recipient a benefit[119]. According to the WTO Agreement on Subsidies and Countervailing Measures, the definition of "subsidy" contains three basic elements: (i) a financial contribution (ii) by a government or any public body within the territory of a Member State (iii) which confers a benefit[120]. The term "subsidy" is often used as a synonym of the term "grant"[121].

According to the European Commission's trade webpage[122], a financial contribution can be:

- a direct or potential transfer of funds (e.g. grants, loans, equity injection or loan guarantees);
- government revenue abandoned or not collected (e.g. tax credits);
- a government providing goods and services, apart from infrastructure;
- a government purchasing goods; and
- any of the above done by a private company on the instruction of the government.

The Proposal for a Regulation of the European Parliament and of the Council of 5 May 2021 on foreign subsidies distorting the internal market[123] also includes a definition of "financial contribution" (Article 2(2)(a)) and includes:

- the transfer of funds or liabilities, such as capital injections, grants, loans, loan guarantees, fiscal incentives, setting off of operating losses, compensation for financial burdens imposed by public authorities, debt forgiveness, debt to equity swaps or rescheduling;
- the foregoing of revenue that is otherwise due; or
- the provision of goods or services or the purchase of goods and services.

[119] https://ec.europa.eu/trade/policy/accessing-markets/trade-defence/actions-against-imports-into-the-eu/anti-subsidy/#:~:text=A%20subsidy%20is%20a%20financial,gives%20the%20recipient%20a%20benefit.&text=However%2C%20unfair%20subsidies%20can%20distort,and%20therefore%20damage%20European%20industry. See also e.g. the definition of subsidy in Article 3 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union.

[120] https://www.wto.org/english/tratop_e/scm_e/subs_e.htm

[121] See IATE Europe: https://iate.europa.eu/search/standard/result/1617736957326/1.

[122] https://ec.europa.eu/trade/policy/accessing-markets/trade-defence/actions-against-imports-into-the-eu/anti-subsidy/#:~:text=A%20subsidy%20is%20a%20financial,gives%20the%20recipient%20a%20benefit.&text=However%2C%20unfair%20subsidies%20can%20distort,and%20therefore%20damage%20European%20industry.

[123] Proposal for a Regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market, COM(2021)223 final. Available at: https://ec.europa.eu/competition/international/overview/proposal_for_regulation.pdf

The financial contribution can be provided by the central government and government authorities at all other levels, public entities and private entities (Article 2(2)(b))[124].

In the context of CBCR, it is not clear whether all forms of State aid[125] received, including loans, tax credits, gifts or exemptions, are to be considered a "public subsidy".

It is noted that the International Financial Reporting Standards include a specific standard on government grants, i.e. *IAS 20 Accounting for Government Grants and Disclosure of Government Assistance*. IAS 20 applies to all government grants and other forms of government assistance. However, it does not cover government assistance that is provided in the form of benefits in determining taxable income. The benefit of a government loan at a below-market rate of interest is treated as a government grant[126].

Legal transposition

All Member States have transposed the indicator "public subsidies received" (or similar) in their national legislation. Most Member States have transposed the indicator literally, but there are three Member States that have further specified the requirement in the transposition:

- **Finland** has included a more elaborate indicator in its transposing provision, i.e. the "aggregate amount of public capital subsidy received and the aggregate amount of loans and guarantees issued by public corporations"[127].
- **Poland** refers to "financial support received from public funds, in particular on the basis of the Act of 12 February 2009 on supporting financial institutions by the Treasury"[128].
- **Italy** has added in its transposing provision that "in the item 'Public subsidies received', the subsidies received directly from public administrations should be reported. It does not include central bank operations for financial stability purposes or operations to facilitate the monetary policy transmission mechanism. Similarly, any transactions falling within the scope of State aid schemes approved by the European Commission should not be taken into account."[129].

In all other Member States, national accounting (or other) legislation generally includes a definition of "public subsidy", "grant", or "State aid", but it is not clear whether these can also be used in the context of the country-by-country report.

[124] The explanatory memorandum to the Proposal for a Regulation of the European Parliament and of the Council of 5 May 2021 on foreign subsidies distorting the internal market explains that "foreign subsidies can take different forms, e.g. zero-interest loans, unlimited State guarantees, tax exemptions or reductions in respect of foreign investments or trade or dedicated State funding". Recitals 8 to 11 of the proposed Regulation further state: "(8) Foreign subsidy in the context of this Regulation should be understood as an intervention that meets three cumulative conditions. (9) There should be a financial contribution provided, directly or indirectly, by the public authorities of a third country. The financial contribution may be granted through public or private entities. […] (10) Such a financial contribution should confer a benefit to an undertaking engaging in an economic activity in the internal market. […] (11) The benefit should be conferred to an individual undertaking or industry or several undertakings or industries. The benefit could be established by law or in fact."

[125] On the subtle differences between "subsidy" and "State aid" and on the lack of legal definitions, see: EPRC (1996), Subsidies and State Aids. The Definition of Acceptable Measures under the European Union and GATT Rules, available at: https://www.eprc-strath.eu/public/dam/jcr:520cd16d-36e3-4665-b738-22e46cd345d6/R21%20Subsidies%20and%20State%20Aids.pdf

[126] https://www.iasplus.com/en/standards/ias/ias20

[127] Act on Credit Institutions: Chapter 10, Section 12 (2), point 6.

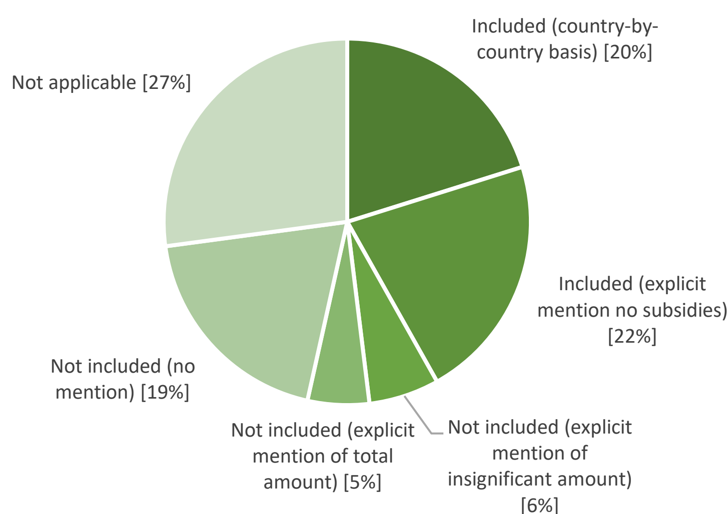
[128] Banking Law Act, Art. 111a(2) point 6); Act on Trading in Financial Instruments, Art. 110w(2) point 6)

[129] Circular 285/2013 Part I, Title III, Chapter 2, Annex A-Information to be published, point f).

Practical implementation

Banks in general did not specify the amounts of subsidies received by country. Indeed, only about one fifth of the banks (20%) in the sample disclosed the subsidies at country-level in the country-by-country report. Another about one fifth of the banks (22%) explicitly mention that they do not receive subsidies. Moreover, more than one in twenty banks (6%) explicitly indicate that the total amount of subsidies received is immaterial or insignificant, while another one in twenty banks (5%) explicitly mention the total amount but not the amount by country. The remaining about half of the banks do not indicate the subsidy, either they disclose a country-by-country report but do not mention the subsidies received or they do not disclose the country-by-country report.

Figure 17: Indication of public subsidies in country-by-country report [share of banks]



Notes: The aggregate shares of banks presented between parenthesis on the labels can deviate from 100% due to rounding. "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

The banks in general do not disclose the definition of subsidies applied in the country-by-country report. As the subsidies at consolidated level are in principle not disclosed in the financial statement, it is not possible to reconcile the aggregate amounts.

Conclusions

The definition of "subsidy" is not defined by most Member State jurisdictions within the context of CBCR. Only a few Member States have included guidance on the term, but the key question remains whether the definition should be limited to direct taxpayer support or whether it should include implicit support provided by government bodies[130]. Only a minority of banks are reporting the amounts of subsidy by country. The country-by-country reports in general do not specify the definitions used for public subsidies, which is especially relevant in the absence of reconciliation possibilities.

[130] European Commission (2014). General assessment of potential economic consequences of country-by-country reporting under CRD IV. Final Report. Study prepared by PwC for European Commission DG Markt following the contract 2014/S 102-177729, page 108.

3.4.7 Other indicators

This section identifies and assesses the other indicators that are required by Member States and reported by banks.

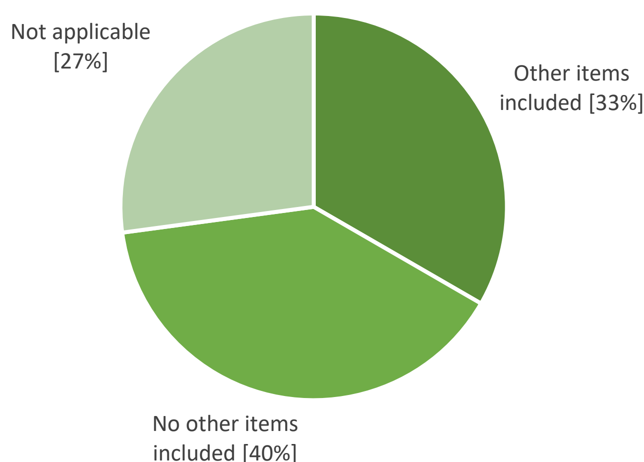
Legal transposition

Article 89(1) CRD IV has been transposed by all Member States and there is not a single Member State where national legislation included additional information to be disclosed on a country-by-country basis. In **Estonia** though, the Minister has the power to impose additional disclosure and reporting requirements based on the 2018 amendment of the national legislation[131]. However, no such additional requirements have been adopted.

Practical implementation

Most banks in the sample (40%) do not provide any indicators or information additional to those specified in Article 89(1) CRD IV (see Figure 18). However, about one third of the banks in the sample (33%) provide additional information.

Figure 18: Other indicators in country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

The other indicators included in the country-by-country reports, include:

- Additional geographical information (cities, continents);
- Specification of operating income items (net interest income, net commission income, net trading income, investment income);
- Profit after tax;
- Additional tax indicators (VAT paid, social security taxes, payroll taxes, other taxes paid);
- More detailed employment figures;

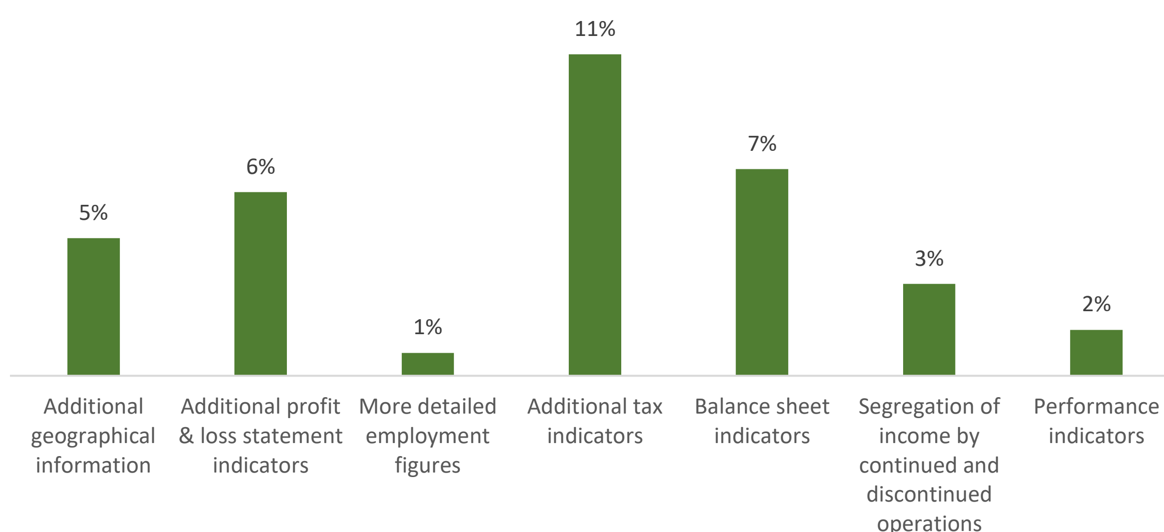
[131] Chapter 8 of the *Krediidiasutuste seadus* (Credit Institutions Act) regulates reporting and disclosure. Section 92 (2) of the Credit Institutions Act stated that Eesti Pank (Estonian Central Bank) may establish additional reporting and information disclosure requirements but, after an amendment, Section 92 (2) of the Credit Institutions Act stipulates that the minister responsible for the area may, by regulation, impose additional requirements for disclosure of reports and information. To date, no such additional requirements have been adopted.

- Balance sheet items (equity, intangible assets, investments, total assets, equity);
- Segregation of income by continued and discontinued operations (incl. companies under liquidation);
- Performance (return on assets and return on equity).

Additional tax indicators (11% of banks), profit and loss statement indicators (operational income items and profit after tax) (6%) as well as balance sheet indicators (7%) are included most frequently in the country-by-country reports as "other items" (see Figure 19).

The banks do not specify their motives for the inclusion of the other indicators in their country-by-country report.

Figure 19: Occurrence of other types of indicators in country-by-country report [share of banks]



Source: Authors' elaboration (2021)

These indicators or information also partially overlap with the indicators that the interviewed stakeholders, and especially the NGOs promoting transparency, tax justice, social responsibility and good working conditions would like to see covered in the country-by-country reports. The stakeholders recommended including:

- Information on payments to employees;
- Additional tax indicators (social security taxes, payroll taxes, etc.)
- Additional items profit and loss account (revenues from third parties, revenues from related parties, depreciation and licence fees)
- Balance sheet items (total assets, equity, etc.)

These indicators are mostly suggested to get better insights on elements for socially responsible behaviour, including some items that might signal base erosion and profit shifting (licence fees, equity, etc.) as well as identify potential facilitation of base erosion and profit shifting for clients (total assets, etc).

Conclusions

All Member States, in the transposition of Article 89(1) CRD IV, have not included any additional indicators. A significant minority of the banks in the sample nevertheless reported additional indicators, including additional tax, income statement, balance sheet,

and geographical indicators. Some of these indicators overlap with the indicators requested by stakeholders.

3.5 Assurance

The accuracy of the country-by-country report is ensured through an audit requirement on the disclosed information. More specifically, Article 89(4) CRD IV states that "[t]he information referred to in paragraph 1 shall be audited in accordance with Directive 2006/43/EC […]". The audit is quasi automatic if the CBCR is included in the notes to the financial statement, whereas a separate audit report is required when the CBCR is disclosed as a separate report.

According to the EBA, "institutions are allowed to include these disclosures in the notes to financial statements, for example as part of their segmental reporting (in accordance with IFRS 8 - Operating Segments). Such positioning would solve the assurance requirement since that would be covered by the standard (statutory) audit and (public) audit report on these financial statements. For some institutions, this solution might not be practicable since these disclosures could be voluminous. Therefore, if the credit institution decides to put the country-by-country disclosures in a separate report, a separate audit report should be provided following the applicable International Standard on Auditing (ISA) 805 Special considerations – Audits of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement"[132].

Legal transposition

All Member States have transposed the full statutory audit requirement laid down in Article 89(4) CRD IV into their national legislation, except **Sweden**. There are a further four other Member States which did not disclose this provision literally, including:

- **Denmark**: transposed the audit requirement elsewhere but made it applicable to CBCR[133];
- **Lithuania**: only seems to have transposed this Directive article with regard to financial brokerage firms[134];
- **Italy**[135] and **Estonia**[136]: only transposed the statutory audit requirement for banks.

[132] EBA Q&A 2014_1044, available at: https://eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2014_1044

[133] Denmark has not transposed Article 89(4) of the Directive. The corresponding national provision could not be located either. The notified provision, Financial Business Act Section 193, refers to the mandatory audit of the annual report. It does not address the specific question of the audit and publication of the information referred to in Article 89(1) of the Directive. It is presumed that full audit is required with respect to the information referred to in Section 124a(1) Executive Order No. 281 of 26/03/2014 on the financial reporting for banks, investment firms and others.

[134] According to the Republic of Lithuania Law on Markets in Financial Instruments, "financial brokerage firm" shall mean a legal person whose regular business is the provision of one or more investment services to third parties on a professional basis and (or) the performance of one or more investment activities on a professional basis.

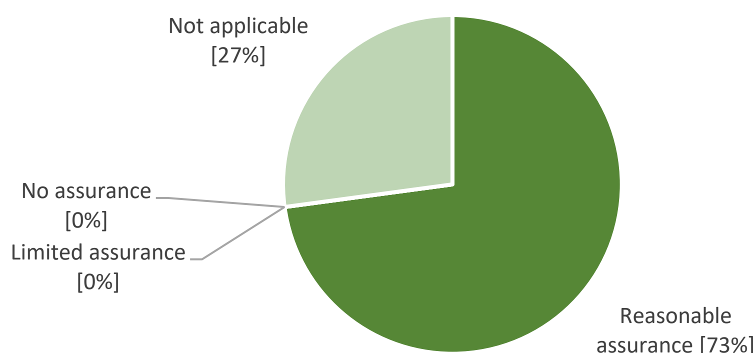
[135] Circular 285/2013, Part I, Title III, Chapter 2, Section II, Point 1 (2nd to 4th paras.)

[136] Section 93 (1) of the *Krediidiasutuste seadus* (Credit Institutions Act) explicitly states that the data provided for in subsection 92 (8) of the Credit Institutions Act shall be audited and section 93 (2) describes the fields that the auditor should express their opinion on, but the same obligation has not been regulated in the *Väärtpaberituru seadus* (Securities Market Act) and the obligation to audit the data provided for in subsection 92 (8) of the Credit Institutions Act has not been stipulated nor made mandatory to investment firms. Therefore, the national legal obligation to audit the information under Article 89(1) of the CRD IV does not apply to investment firms.

Practical implementation

All the banks in the sample seem to fulfil this requirement. This means that all the banks disclosing a country-by-country report obtained reasonable assurance on their report (see Figure 20). The remaining about a quarter of the banks in the sample (27%) did not disclose a country-by-country report.

Figure 20: Level of assurance on country-by-country report [share of banks]



Note: "Not applicable" covers all those banks which do not publish an own country-by-country report.
Source: Authors' elaboration (2021)

Conclusions

Most Member States have adequately transposed the (statutory) audit requirement laid down in Article 89(4) CRD IV. The banks disclosing a country-by-country report seem to fulfil the requirement to obtain assurance on their report.

3.6 Impact of country-by-country reporting on trust in financial sector

The general objective of CBCR is to regain the trust of citizens in the financial sector by increasing transparency regarding the activities of institutions. This has been detailed in two specific objectives:

- To increase transparency regarding the activities of institutions, including profits made, taxes paid, and subsidies received; and
- To contribute to the corporate responsibility of institutions towards stakeholders and society.

As stated above, the effectiveness of CBCR cannot be analysed in isolation, but in the context of many other provisions and requirements that have helped regain trust and transparency.

When conducting interviews, there seems to be a general consensus that transparency in the financial sector has increased since the financial crisis of 2008 and that the overall

image of banks seems to have improved. In addition, studies in France[137] and Slovenia[138] found that trust in banks has equally improved.

Overesch & Wolff (2018)[139] explored the effect of CBCR under Article 89 CRD IV on corporate tax avoidance by analysing the development of tax expenses of European multinational banks around the reform. The study found that European multinational banks with reported activities in tax havens increased their effective tax rate (ETR) by 3.7 percentage points relative to other unaffected banks, after CBCR became mandatory. Moreover, there was a particularly pronounced response of those banks that were particularly exposed to the new transparency due to significant activities in tax havens. In short, the results suggest that CBCR is an effective tool against tax evasion, as the response of multinational banks is explained by the requirement rather than the general trend in the financial sector.

In turn, Joshi, Outslay & Persson (2020)[140] obtained different results. They found some evidence of a decrease in the level of income shifted by the financial affiliates after the adoption of CBCR. However, at bank level they did not identify any significant change in tax avoidance by European rates. Although effective tax rates grew, they did not grow more than US/Canadian banks or EU multinational insurance companies.

Regarding transparency, Dutt et al (2019)[141] compared the data collected from country-by-country reports with previously available public information. They found that country-by-country reports disclosed a large fraction of worldwide profits and real activities that were previously not publicly available. Those transparency gains are especially relevant with regard to tax havens, for instance showing an important disconnect between reported profits and bank activities. However, they consider that data coming from country-by-country reports alone does not allow for an exact estimation of profit shifting, due the lack of important indicators such as total assets and staff costs.

In addition, Fatica and Gregori (2018)[142] analysed profit shifting by banks on the basis of the country-by-country reports. They argue that the disclosure of these reports greatly contributes to the analysis of profit shifting. More specifically, the country-by-country reports allow to comprehensively analyse EU banks activities across the globe, including in tax havens. This is otherwise not available in great detailed on commercial firm-level databases. The study further finds that profits are primarily shifted between subsidiaries, rather than between the home country and the foreign country. The shifted profits are according to simulations higher in tax havens than in non-tax havens.

When discussing with stakeholders, banks remain confident that the increased transparency resulting from all the disclosure requirements has improved the confidence of citizens in the banking sector. Other stakeholders, such as supervisors and NGOs which are focused on transparency, tax justice, social responsibility and labour unions, also see a positive effect. They indicate that profit shifting has diminished and that this has given a unique

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[137] IFOP & FBF (2021). Les Français, leur banque, leurs attentes. Available at: https://www.ifop.com/publication/les-francais-leur-banque-leurs-attentes-2/

[138] Valicon (2019). Valicon Ogledalo Slovenije 2012- 2018. Available at: https://www.valicon.net/sl/2019/01/valicon-ogledalo-slovenije-2012-2018/

[139] Overesch, M. and Wolff, H. (2018). Financial Transparency to the Rescue: Effects of Country-by-Country Reporting in the EU Banking Sector on Tax Avoidance.

[140] Joshi, P., Outslay, E., Persson, A. (2020). Does Public Country-by-Country Reporting Deter Tax Avoidance and Income Shifting? Evidence from the European Banking Industry.

[141] Dutt, V.K., Nicolay, K., Vay, H., Voget, J. (2019). Can European banks' country-by-country reports reveal profit shifting? An analysis of the information content of EU banks' disclosures, ZEW Discussion Papers, No. 19-042, ZEW - Leibniz-Zentrum für Europäische Wirtschaftsforschung, Mannheim.

[142] Fatica, S. and Gregori, W. (2018). Profit shifting by EU banks: evidence from country-by-country reporting. JRC Working Papers in Economics and Finance, Publications Office of the European Union. Available at: https://publications.jrc.ec.europa.eu/repository/handle/JRC111309

view on banks' activities in offshore financial centres and tax havens.

3.7 Impact of country-by-country reporting on competitiveness

The current CBCR under Article 89 CRD IV could potentially constitute a commercial and competitive risk for the financial sector, as their non-EU based counterparts are not subject to similar requirements. However, none of the stakeholders interviewed mentioned that this had been an issue. In particular, banks consider that the current standard is sufficient, being for now at the correct balance between the need for transparency on financial group operations and the preservation of their strategic and commercial data. Moreover, in a hearing before the European Parliament's special committee on tax rulings on 16 November 2015, Barclays and HSBC stated that CBCR has not hindered their commercial interests[143]. PWC (2017) found that CBCR could have a positive, but indirect, impact on firms' competitiveness, as its aim is to foster improvements in the quality of disclosure. This would improve firms' competitive outcomes. In particular, it could lead to a reduction in the practice of using accounting discretion to present the financial results of the entity to investors in an artificially positive light. As a result, the market will be more aware of the true value of the firm. A survey was also conducted among stakeholders, 53% of whom replied that there would be no impact on competitiveness[144].

In addition, a study by Transparency International EU[145] assessed the impact of public reporting on corporate competitiveness. With public country-by-country disclosures by European multinationals increasing, they did not discover any definitive trend in terms of impact on competitiveness. Indeed, no links were found between CBCR and competitiveness.

Nonetheless, several banks mentioned that the publication of more technical information would be detrimental to fair competition as it would give non-EU based banks information about the way EU banks are organised. They are also concerned about the impact on their reputation, as they fear that providing further complex information could create confusion and damage the image of banks. For instance, one bank from Luxembourg considered that disclosing more information on internal cross-border transactions would not have any additional value for the public. This is because they could not properly understand it since it requires a proper and complete view of each entity's organisation and specificities, which is by nature only achievable by the company itself and its supervisory authorities.

[143] Hearing before the European Parliament TAXE Committee (2015) *https://www.youtube.com/watch?v=a1lJCKT4ikI*

[144] General assessment of potential economic consequences of country-by-country reporting under CRD IV (2017) PWC for European Commission, https://op.europa.eu/en/publication-detail/-/publication/0a178acc-d60a-11e5-a4b5-01aa75ed71a1/language-en

[145] Transparency International (2016). Do corporate claims on public disclosure stack up? Available at: https://transparency.eu/wp-content/uploads/2016/10/Impact_of_Public_Reporting_FINAL.pdf

4 Limited administrative costs resulting from CBCR requirement

In this section, the administrative and incremental costs related to the disclosure of the country-by-country report under Article 89 of CRD are analysed. Both types of costs are presented in median absolute values and as a share of turnover, operating costs and total assets. In addition, the main potential determinants of the administrative and incremental costs are discussed.

All administrative and incremental costs are estimated by relying on the SCM[146] as defined in Tool #60 of the Better Regulation Toolbox[147] and detailed in Chapter 2 presenting the methodological framework for this study.

In line with the SCM and to measure the typical costs stemming from the CBCR obligation under Article 89 of CRD, this section presents point estimates[148]. To the extent possible, the variability between cost data provided by sampled companies have been reduced by i) when possible, relying on a number of observations larger than the minimum of five specified by the SCM; ii) removing outliers; and iii) creating 'case groups' based, for instance, on geographical scope and size. The administrative costs and incremental costs presented in this section are based on 22 validated responses.

The descriptive statistics for the main variables used in this section are presented in Annex IV.

4.1 Administrative and incremental costs

The median administrative costs are just below EUR 1,000 per bank in both the first year (EUR 964) and the following years (EUR 859) of reporting (see Figure 21). This relatively modest difference is, according to the survey respondents, due to various particular challenges in the implementation. More specifically, according to the survey respondents the following three challenges increased the costs in the first year of reporting:

- Defining the most appropriate reporting format;
- Updating the accounting software to automatically generate the required information;
- Training staff to prepare the necessary information.

Although the CBCR requirement is applicable to all banks and investment firms in the scope of CRD, in practice, there are many banks for which the CBCR requirement is of relatively limited importance. Indeed, approximately 90% of the banks in the EU-27 are only domestically active or a subsidiary of an internationally operating bank (see section 4.3 on total costs)[149].

In the survey, nine banks participated that were only active in a single country. They indicated that they were not reporting, made a reference to the report prepared at group-level or provided (in most cases repeatedly) the information at the same level as the rest

[146] SCM Network (2005), "The International SCM Manual; Measuring and Reducing Administrative Burdens for Businesses".

[147] European Commission (2017), Better Regulation Toolbox, p. 488.

[148] The SCM does not work with ranges of estimates. For further details see: SCM Network (2005), "The International SCM Manual; Measuring and Reducing Administrative Burdens for Businesses", p. 4; and European Commission (2017), Better Regulation Toolbox, p. 497.

[149] All institutions are obliged to include a country-by-country report, whether or not they are active in multiple countries.

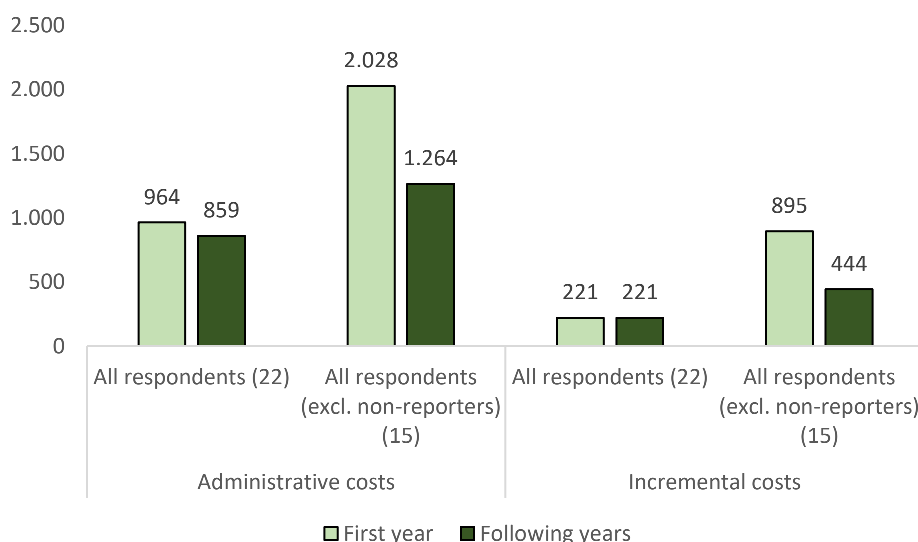
of the annual report also in the country-by-country report. Those that were not reporting indicated that they also did not have any costs. Further, they argued that they did not have costs to familiarise them with the requirement. Those that provided the information for the single country, indicated that the costs were limited, ranging from between EUR 200 to EUR 300 per bank per annum.

The inclusion of these non-reporters leads to a significant reduction of the median administrative and incremental costs. Therefore, the statistics are analysed based on all survey respondents as well as the reporting survey respondents (excluding non-reporters), if relevant. Indeed, legally all institutions are required to disclose a country-by-country report, nevertheless many institutions (especially those active in a single country) are not disclosing the required indicators in a country-by-country report.

In fact, in the first reporting year, the median administrative costs would more than double to just over EUR 2,000 when the survey respondents that are not preparing a country-by-country report are excluded. The difference between the first and following years is even more pronounced. This is primarily because the larger banks for which the initial costs are relatively larger become more important when the non-reporters are excluded.

The incremental costs are only about one quarter of the administrative costs linked to the preparation of the country-by-country report. This limited incremental cost in comparison to the administrative costs are due to a combination of normal business practices (internal reporting, non-financial reporting, etc.) as well as other legislative requirements (country-by-country reporting resulting from the DAC requirements, segment reporting as part of IFRS, etc.), which would also be performed in absence of the country-by-country requirements under Article 89 of CRD IV. The potential overlap between these legislative requirements and CBCR under CRD is discussed in Chapter 6 on coherence.

Figure 21: Administrative and incremental costs (EUR)



Notes: Number of responding banks in parentheses.
Source: Authors' elaboration (2021)

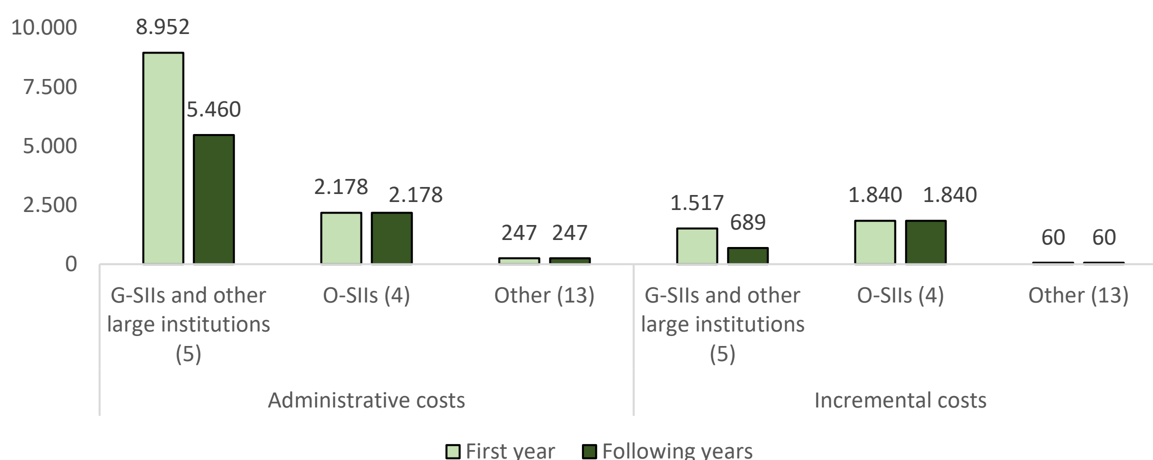
The costs vary significantly across the size of institutions. In general, the larger the bank the higher the administrative costs (see Figure 22). G-SIIs and other large institutions generally face administrative costs which are twice as high as O-SIIs and more than twenty times the cost of other banks. This is mostly explained by the complexity of the reporting. Indeed, G-SIIs and other large institutions are, on average, active in more countries, have greater organisational complexity and are less frequently non-reporting.

If the non-reporters (see

Figure 23) are excluded, the differences between the various bank sizes becomes less. The median administrative costs of G-SIIs and other large institutions remain the same, while those of O-SIIs and other banks increase.

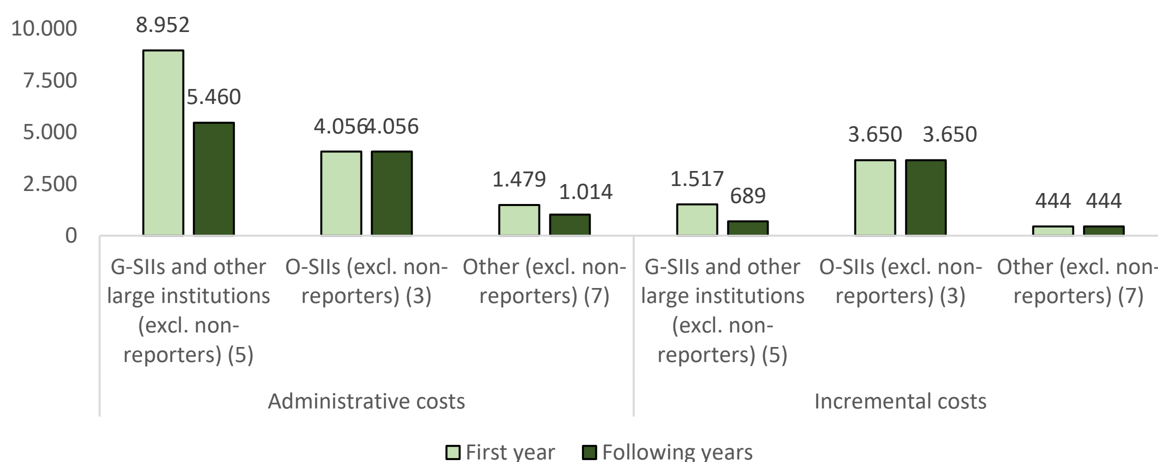
Interestingly, the incremental costs seem larger for O-SIIs than for G-SIIs and other large institutions. This is explained by a combination of relatively less CBCR under normal business practices as well as other legislative requirements. For example, the CBCR to tax authorities under DAC4 is only applicable to multinational companies with consolidated group revenues in excess of EUR 750 million.

Figure 22: Administrative and incremental costs by size (EUR)



Notes: Number of responding banks in parentheses.
Source: Authors' elaboration (2021)

Figure 23: Administrative and incremental costs by size (excl. non-reporters) (EUR)



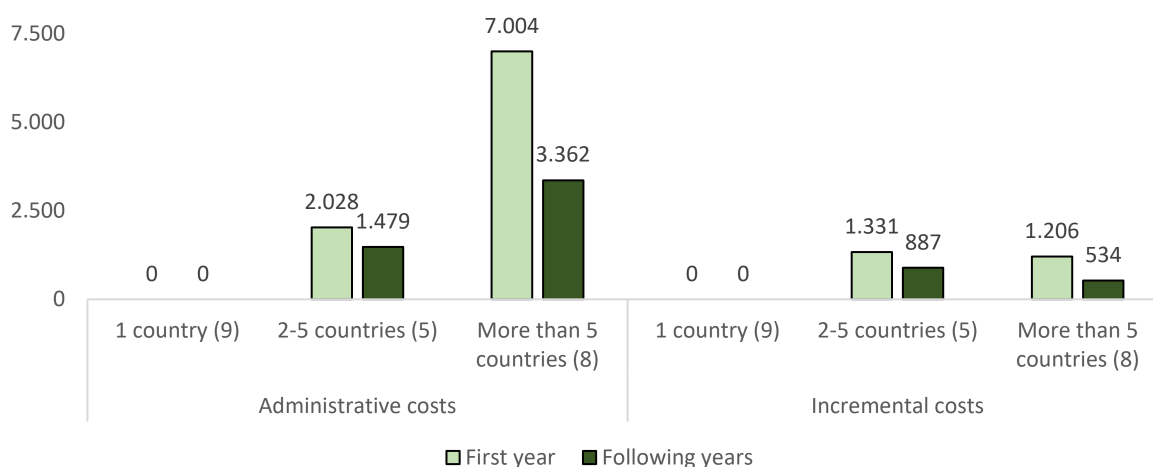
Notes: Number of responding banks in parentheses.
Source: Authors' elaboration (2021)

The number of countries covered in the country-by-country report seems another driver of administrative costs. In general, banks active in more countries have higher administrative costs (see Figure 24). The survey respondents active in more than five countries have the highest median costs. In the first year the median costs were about EUR 7,004 and the

following years almost half, with about EUR 3,362. The survey respondents active in between two to five countries had median costs that were less than half of those, EUR 2,028 in the first year and EUR 1,479 in the following years. For those banks active in just one country, there are no costs for the median survey respondent. Almost all of these respondents were not reporting (7 out of 9 responding institutions).

The median incremental costs for responding banks active in more than five countries is more similar to those of banks active in two to five countries. This means that the combination of CBCR under normal business practices as well as other legislative requirements is higher for responding banks active in more than five countries. These banks are in general larger, and are subject to more non-legislative practices and legislative country-by-country requirements.

Figure 24: Administrative and incremental costs by number of countries (EUR)



Notes: Number of responding banks in parentheses.
Source: Authors' elaboration (2021)

The reporting institutions might also have costs for the required assurance of the country-by-country report. The surveyed banks that have a country-by-country report reported a wide range of costs ranging from EUR 0 to EUR 14,000. About half of the respondents that provided an estimate indicated their costs at EUR 1, 000 or less. A substantial minority of the surveyed banks were unable to provide an estimation of the assurance costs, as the costs for the assurance of the country-by-country report are often not specified to the banks, as they form part of the assurance engagement on the annual report.

4.2 Other potential determinants of administrative and incremental costs

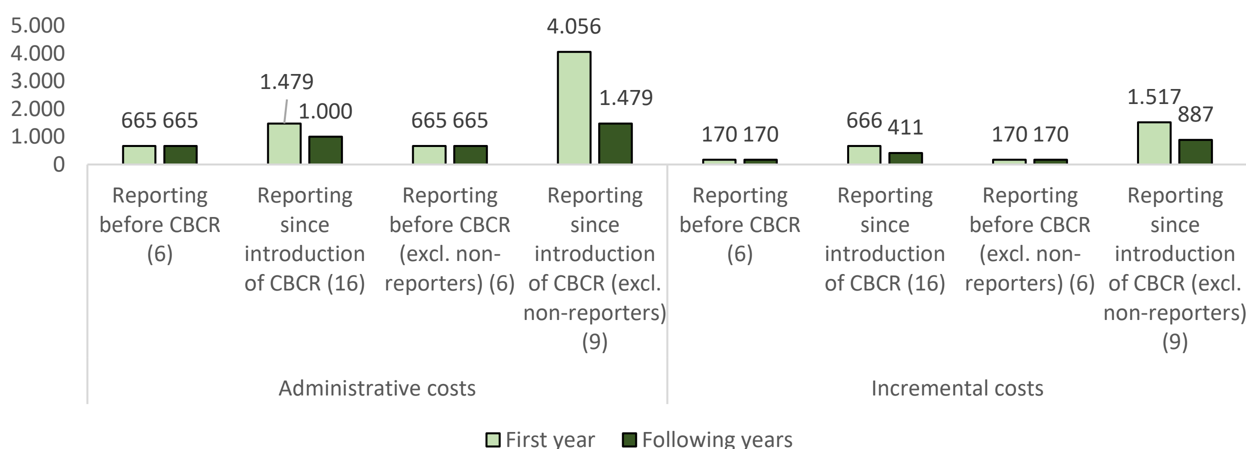
Besides the size and number of countries, there might be other factors that have an impact on the administrative and incremental costs linked to the country-by-country report. These factors are summarised as follows:

- Started reporting the country-by-country information before or after the implementation of the country-by-country report under CRD;
- Corporate level covered in the report;
- Location of the report;
- Activity in third countries;
- Listed shares;
- Type of ownership.

Banks that started reporting before the introduction of CBCR have lower initial administrative and incremental costs than those that started providing the country-by-country report with the introduction of the requirement under CRD. In fact, the first year median administrative cost for those surveyed banks that were already reporting before the introduction of the country-by-country report (EUR 665) is less than half the median administrative cost (EUR 1,479) of those banks that only started reporting since the introduction of CBCR. In the following years, the differences decline as the first and following year costs are the same for banks that were already reporting on a country-by-country basis before the introduction of the requirement, and about a third lower for banks which started reporting with the introduction of the country-by-country report.

The differences are even more pronounced on incremental costs and when the non-reporters were excluded. The median incremental cost for those reporting before the CBCR requirement (EUR 170) is about one fourth of the median first-year incremental costs (EUR 666) for those that are reporting only since the introduction of CBCR. However, the differences are even larger when the non-reporters are excluded. While the costs for those already reporting before the introduction of the CBCR requirement remain about the same (EUR 666), the median first year administrative cost for those that started reporting with or after the introduction is about two and a half times larger (EUR 4,056) and the following year-costs are about one and a half times larger (EUR 1,479).

Figure 25: Administrative and incremental costs according to whether the company started reporting before or since the CBCR was introduced (EUR)



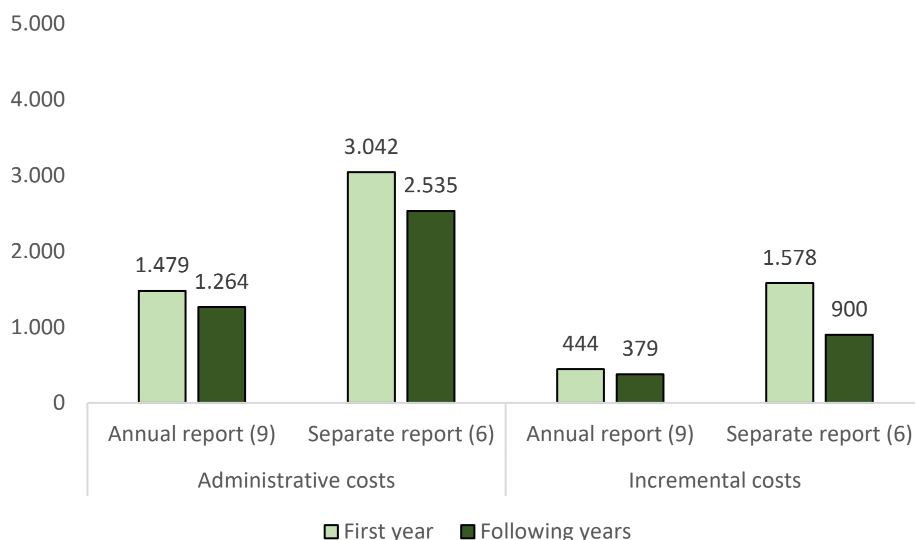
Notes: Number of responding banks in parentheses.
Source: Authors' elaboration (2021)

The vast majority of the banks need to provide the country-by-country report at consolidated level. Only those with a single entity report at individual level. There were insufficient banks reporting at individual level participating in the survey to provide representative median administrative and incremental costs. However, based on the limited information available, it seems that the reporting costs at consolidated level are higher than at individual level, i.e. median costs of consolidated reporting banks are higher than when the individual reporting banks are included. The higher costs might be, among others, explained by the more complex organisational structures of banks reporting at consolidated level.

Companies that prepare separate reports have higher administrative and incremental costs than those that include the country-by-country report in the annual report. In the first year, the median administrative costs of the surveyed banks were basically twice as large for those that prepare a separate report, while the incremental costs are even about three times as large as those surveyed banks that integrate the report in the annual report (see Figure 26). The differences in incremental costs are more pronounced. The higher costs for separate reporting might well be explained by the fact that the reporting can benefit

less from the reporting, assurance and publication procedures already conducted for the annual report.

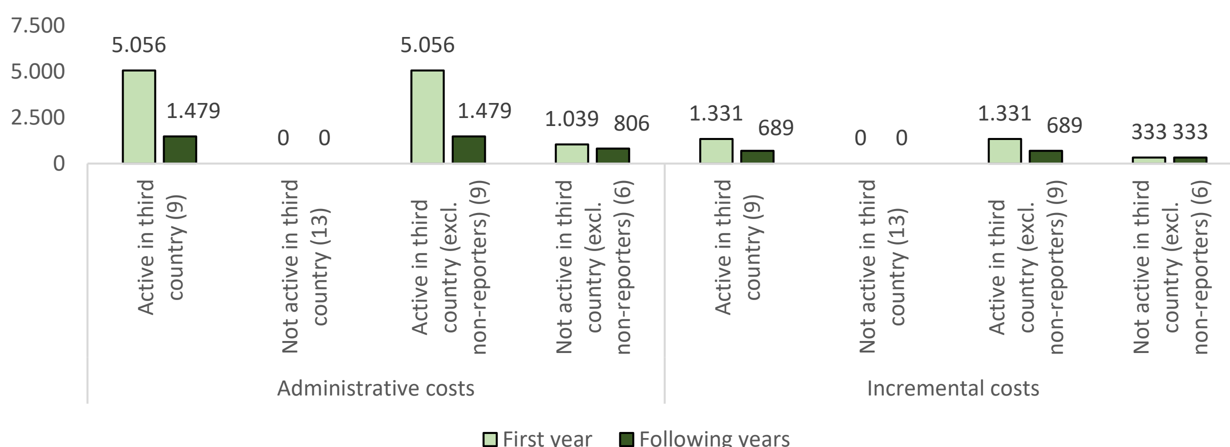
Figure 26: Administrative and incremental costs by location of report (EUR)



Notes: Number of responding banks in parentheses.
Source: Authors' elaboration (2021)

Another issue that has a big influence on costs is the geographical activity of the surveyed banks (see Figure 27). All the surveyed banks active in third countries publish a country-by-country report, while only a minority of those without activities in third countries do. The median costs for those active only in the EU are EUR 0, if the non-reporters are also considered. Considering only the reporting banks, the median administrative and incremental costs are up to five times larger for banks active in third countries. This difference is likely to be partially due to the activities in third countries, but also due to a larger size, activities in more countries, etc. of surveyed banks.

Figure 27: Administrative and incremental costs by activity in third countries (EUR)



Notes: Number of responding banks in parentheses.
Source: Authors' elaboration (2021)

Similarly, the median administrative and incremental costs of listed institutions are substantially higher than those of non-listed banks. The differences are partially if not entirely

explained by the other differences in the characteristics of the surveyed banks (larger size, activities in more countries, non-reporting, etc.). For example, while nearly all the listed banks are reporting, more than half of the non-listed banks are not disclosing a country-by-country report.

In the same line, the median administrative and incremental costs of shareholder value banks are substantially higher than that of stakeholder value banks such as cooperatives, savings and state-owned banks. The median administrative and incremental costs of shareholder value banks are between ten and forty times larger than that of stakeholder value banks. The stakeholder value banks are relatively more often non-reporting compared to shareholder value banks. If the non-reporters are excluded, the difference decreases from about the same incremental costs to about twice the median administrative costs. The differences in the reporting costs seem to be mostly explained by the other characteristics of shareholder and stakeholder value banks. For example, stakeholder value banks are often smaller in size and active in fewer countries, which eases the preparation of the country-by-country report.

4.3 Total administrative costs for all banks

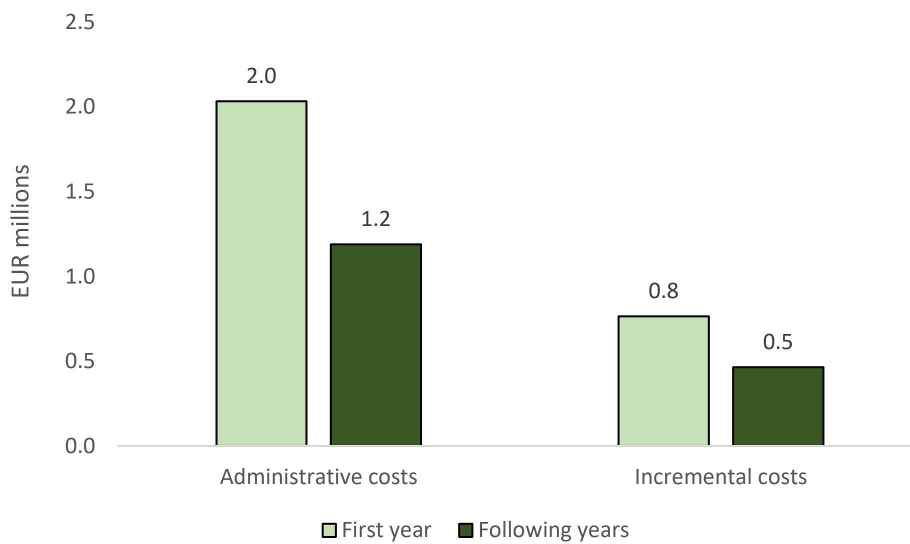
There are approximately 4,600 banks (including EU branches of third country banks) within the scope of CBCR according to the list of all credit institutions for the EU-27 obtained from the ECB[150]. The credit institutions, which are not subject to CRD as defined under Article 2(5) CRD IV have been excluded from the list. The large majority of these banks do not have foreign subsidiaries and/or branches. In fact, only about 600 banks and non-EU branches are active in more than one country. About three-quarters of these internationally operating banks are active in between two to five countries and the other quarter in more than five countries.

Considering that all these banks have costs similar to the median costs for banks included in the survey, the total costs are estimated at about EUR 2.0 million for all EU banks in the first year of reporting and about EUR 1.2 million in the following years (see Figure 28). The incremental costs are a fraction of the administrative costs. The total incremental costs in the first year are an estimated EUR 0.8 million, which is about two-fifth of the total administrative costs. In the following years, the incremental costs drop to about EUR 0.5 million per year, which is less than half of the total administrative costs.

More than two-thirds of the costs are borne by the parents, while almost all of the remaining one-third is borne by the subsidiaries and about 1% negligible due to non-EU branches.

[150] ECB (2021). "List of Monetary Financial Institutions (daily data)", available at: https://www.ecb.europa.eu/stats/financial_corporations/list_of_financial_institutions/html/elegass.en.html .

Figure 28: Total administrative and incremental costs (EUR million)

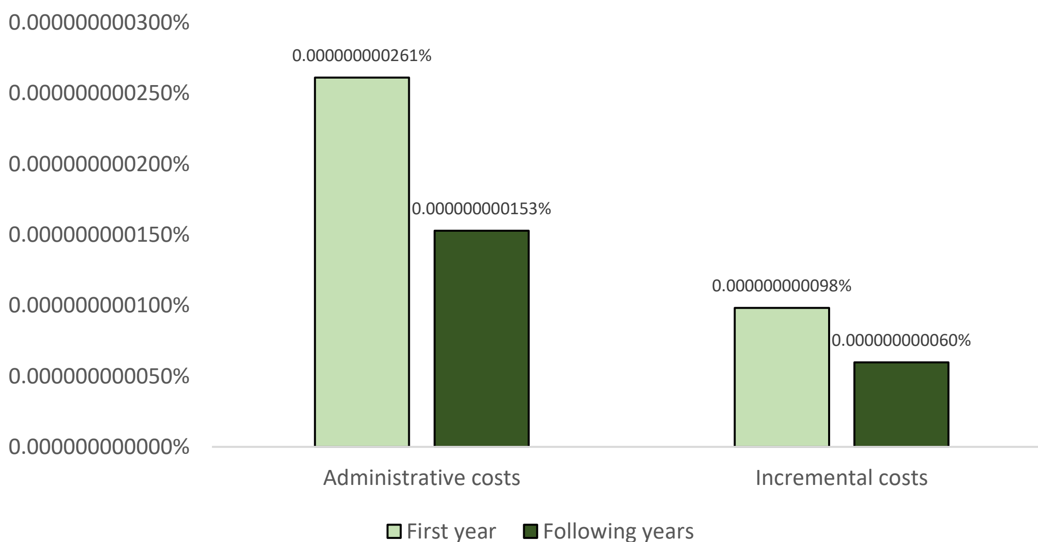


Source: Authors' elaboration (2021)

The administrative and incremental costs are insignificant for the banks subject to the CBCR requirement. Expressed in terms of turnover, operating costs and total assets are very low (see

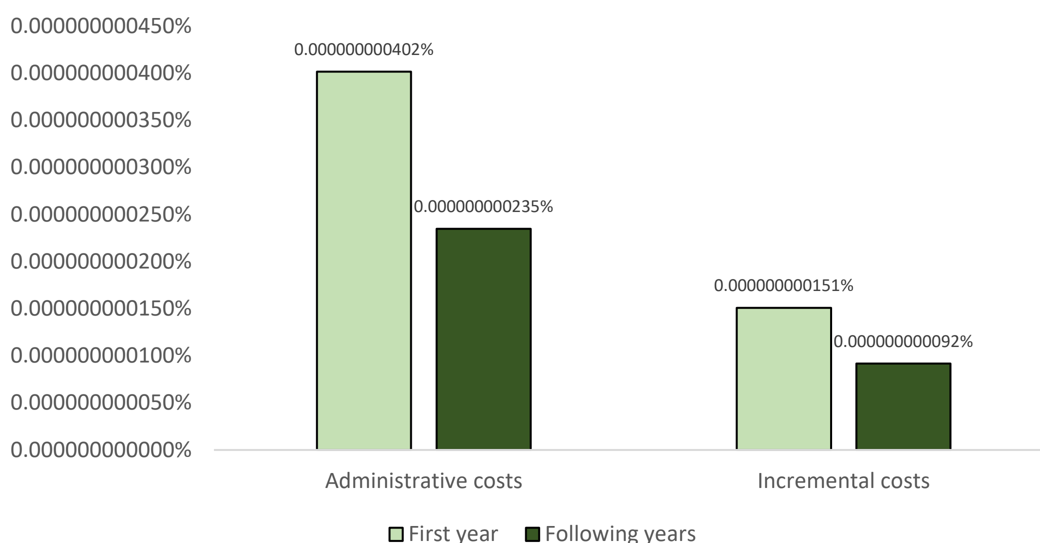
Figure 29, Figure 30 and Figure 31). In fact, the total costs are well below the percentage point and they are reduced to almost half after the first year.

Figure 29: Total administrative and incremental costs (share of turnover)



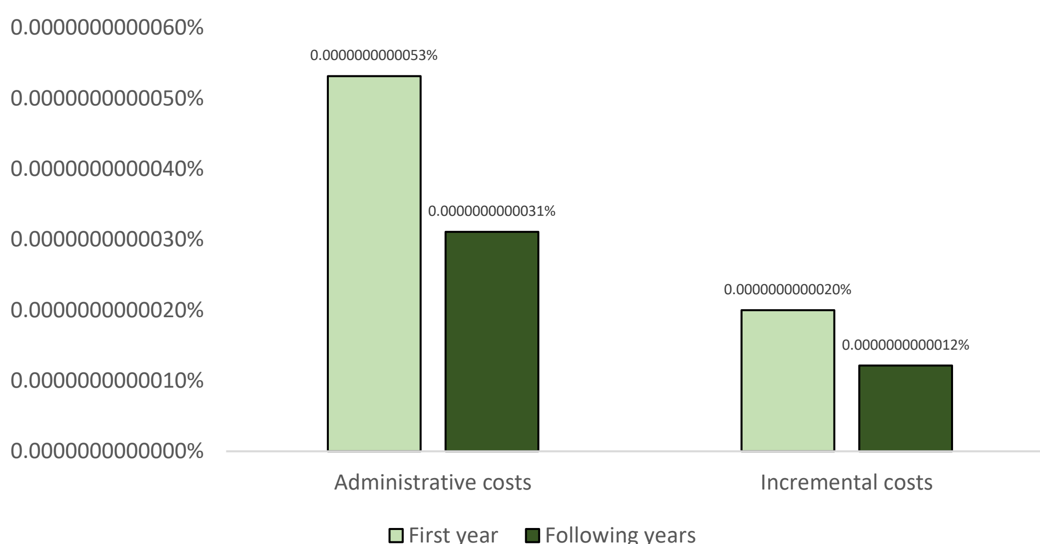
Source: Authors' elaboration (2021)

Figure 30: Total administrative and incremental costs (share of operating costs)



Source: Authors' elaboration (2021)

Figure 31: Total administrative and incremental costs (share of total assets)



Source: Authors' elaboration (2021)

4.4 Conclusions

The administrative costs involved in the preparation of the country-by-country reports are relatively limited. The main drivers of the administrative costs are size of the reporters, number of countries in which the bank is active, location of the report and reporting year.

There are approximately 4,600 EU banks, of which about 600 banks or 13% are active in two or more countries through controlled subsidiaries and/or branches. Based on the median costs for the surveyed banks, the total administrative costs are estimated. The preparation of the country-by-country reports are estimated to cost the first year of reporting about EUR 2.0 million per annum. The following years the costs are estimated at EUR 1.2 million per annum. In relative terms the administrative costs are negligible (less than 0.000000001% of operating costs).

In the absence of the CBCR requirement, the banks would have incurred most of the administrative costs already. Indeed, many banks are also reporting some or all indicators at country level for their business reporting, reporting to tax authorities and/or segment reporting. Considering the overlap with other practices and requirements, the incremental costs for country-by-country reports are estimated at EUR 0.8 million per annum the first year and EUR 0.5 million per annum the consecutive reporting years.

The assurance costs are not included in the estimated administrative costs. The assurance costs are potentially similar or even larger than the administrative costs.

5 CBCR remains relevant despite fading memory of global financial crisis

The country-by-country reporting obligation was introduced by the European Parliament in the negotiations of CRD IV[151]. Banks and financial institutions had been at the origin of the crisis as the Commission stressed in 2009[152]. They also benefitted from significant public sector support aimed at restructuring and rescuing firms to ensure financial stability. In that regard, the Commission has long stressed that "to reduce moral hazard, aid should only be granted on terms which involve adequate burden-sharing"[153]. However, despite these efforts, the rapporteurs in the European Parliament that introduced country-by-country reporting in CRD IV observed that the general perception was that financial institutions were not the ones suffering the consequences of the crisis. Indeed, several studies, discussed below, suggest very low levels of confidence in financial institutions in the aftermath of the financial crisis. For instance, according to the Edelman Trust Barometer, only 44% of the people answered postivelyto the question whether they trusted businesses in the financial services sector to do what is right in 2012[154]. Also international organisations like the OECD have indicated that the financial crisis caused a decline in public trust in financial markets[155]. Equally, financial institutions have long been seen as enablers in tax avoiding schemes[156]. With public pressure mounting, CBCR was implemented as a tool to restore the trust in the financial system.

"Increased transparency regarding the activities of institutions, and in particular regarding profits made, taxes paid, and subsidies received, is **essential for regaining the trust of citizens of the Union in the financial sector**. Mandatory reporting in that area can therefore be seen as an important element of the corporate responsibility of institutions towards stakeholders and society" (Recital 52 of the CRD IV).

The rapporteurs and their support staff from the European Parliament interviewed for this study further indicated that **tax transparency** was also an important motivation for the inclusion in CRD IV. Banks have been deemed key instruments in tax evasion and optimisation. Volckaert (2016) considers that banks are particularly well placed to be asked to participate in aggressive tax planning as they have access to the significant amounts of capital necessary for large scale transactions, a big network of entities across jurisdictions and can adapt complex financial securities to tax planning demands[157]. CBCR aims to give citizens and tax authorities basic data on the geographical location of the activity of banks and their taxation practices. The idea was that the transparency on taxes i) makes banks hesitant to conduct aggressive tax planning both for themselves and their clients, ii) increases public awareness, and iii) increases public support or pressure on public authorities to implement measures against aggressive tax planning.

The Relevance chapter is drafted based on a combination of desk research and stakeholder interviews with various stakeholders at national and EU-level.

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[151] European Parliament (2021). Amendment 269. Philippe Lamberts, Draft Report of the CRD IV, p.137. Available at: https://www.europarl.europa.eu/doceo/document/ECON-AM-483816_EN.pdf

[152] European Commission (2009). Economic Crisis in Europe: Causes, Consequences and Responses. Available at: https://ec.europa.eu/economy_finance/publications/pages/publication15887_en.pdf

[153] European Commission (2013). Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis.

[154] Edelman trust barometer (2021). Trust in Financial services. Available at: https://www.edelman.com/sites/g/files/aatuss191/files/2021-04/2021%20Edelman%20Trust%20Barometer%20Trust%20in%20Financial%20Services%20Global%20Report_website%20version.pdf

[155] OECD (2019). OECD Business and Finance Outlook 209: Strenghtening Trust in Business. Available at: https://www.oecd-ilibrary.org/sites/4d7c9b81-en/index.html?itemId=/content/component/4d7c9b81-en

[156] European Parliament (2016). The role of the financial sector in tax planning. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2016/578980/IPOL_STU(2016)578980_EN.pdf

[157] Idem

5.1 Trust in the financial sector

As stated in the above-mentioned Recital 52 of the CRD IV, CBCR aims to reduce profit shifting of financial institutions by increasing transparency[158] and improving trust. The Edelman trust barometer, used amongst others by the OECD[159], provides comparable data for trust in the financial sector since 2012. The barometer indicates that global trust of citizens in the financial sector has increased in recent years with 44% of the population in the 27 countries across the globe surveyed trusting the financial sector in 2012 and 56% in 2020. In 2021, however, there has been a drop to 52%, a consequence of the pandemic[160].

Although there is no EU-wide study on the trust of European citizens in financial institutions covering the entire period from before the global financial crisis onward, the Edelman trust barometer offers some information on certain EU Member States like Italy, where trust in financial services has increased 10% since 2012[161]. Some studies conducted at national level confirm that trust in the financial sector has increased in recent years, but is still not at the levels just before the global financial crisis. For instance, a 2020 survey in France[162] found that 61% of French citizens had a good image of banks in general, 10 percentage points more than in 2018, but still below the level of 2008 (68%). In the Netherlands, trust in both the financial institutions Dutch citizens are customer to and financial institutions in general decreased after the outbreak of the financial crisis up to 2009, after which trust only gradually increased. Trust in 2020 was still well below the pre-crisis levels[163]. Meanwhile a study on Slovenia found that trust in banks increased 33% between 2012 and 2019[164]. On the other hand, in Ireland there is still a large minority (43% of the population) who say that their perception of banks has worsened since 2008[165]. In Greece there were various surveys on trust in the banking sector. The survey methodologies are not fully comparable, nevertheless they indicate a strong drop in trust in banks since the financial crisis. In the key days of the financial crisis in 2008, 70% of Greeks indicated that they trusted the banks in their country[166]. More recently, in 2019, a survey found that only 25% of the survey respondents trusted banks[167].

The more than a decade that has passed since the financial crisis could, thus, indicate that people are less sensitive towards it, however the above-mentioned surveys and the responses from interviews seem to indicate that even if trust in the financial sector has improved, citizens have still not forgotten the financial crisis.

The current COVID-19 crisis constitutes, more than a decade after the global financial crisis, a test on public trust in the financial sector. About 90% of European citizens agree

[158] F. Hugger (2019). The Impact of Country-by-Country Reporting on Corporate Tax Avoidance.
[159] OECD (2019). OECD Business and Financial Outlook 2019: Strengthening Trust in Business. Available at: https://www.oecd-ilibrary.org/sites/4d7c9b81-en/index.html?itemId=/content/component/4d7c9b81-en
[160] Edelman trust barometer (2021). Trust in Financial services. Available at: https://www.edelman.com/sites/g/files/aatuss191/files/2021-04/2021%20Edelman%20Trust%20Barometer%20Trust%20in%20Financial%20Services%20Global%20Report_website%20version.pdf
[161] Idem
[162] IFOP & FBF (2021). Les Français, leur banque, leurs attentes. Available at : https://www.ifop.com/publication/les-francais-leur-banque-leurs-attentes-2/
[163] Van der Cruijsen, C., J. de Haan and R. Roerink (2020). Trust in financial institutions: A survey. DNB Working Paper No. 693. Available at: https://www.dnb.nl/media/l2ofthn5/working-paper-no-693_tcm47.pdf.
[164] Valicon (2019). Valicon Ogledalo Slovenije 2012- 2018. Available at: https://www.valicon.net/sl/2019/01/valicon-ogledalo-slovenije-2012-2018/
[165] Irish Banking Sector Culture Board (2021). Public trust in banking survey. Available at: https://603101-1952083-raikfcquaxqncofqfm.stackpathdns.com/wp-content/uploads/2021/05/IBCB-2021-eist-Public-Trust-in-Banking-Survey-ONLINE-v2.pdf
[166] Hellastat (2008). Available at: https://www.capital.gr/oikonomia/598423/epta-stous-10-ellines-empisteuontai-tis-trapezes
[167] Konrad Adenauer Foundation (2019). Available at: https://www.athensvoice.gr/politics/547740_dimoskopisi-poioys-thesmoys-empisteyontai-perissotero-oi-ellines

that the crisis will have serious economic consequences for their country[168]. The above-mentioned Edelman trust barometer shows that in 2021, after years of rebuilding, there was a global decrease in trust in the financial sector (-4%). Some of the biggest drops in trust happened in European countries like Spain (-9%), Ireland (-7%) and France (-7%)[169]. In any case, this time, the financial sector is not at the origin of the crisis and it is better prepared, which is likely to result in less reduction in trust. In fact, the European Commission has already stated that "banks have a crucial role to play in mitigating the effects of the coronavirus crisis, by maintaining the financing of the economy"[170]. For the moment, the financial system has proved very resilient to this crisis[171], however, how that is considered by European citizens remains to be seen. Although banks tend to emphasise the positive effects on public confidence of their efforts to support the economy, through various loan relief measures and the continuous service to customers during the lockdown, all the interviewed NGOs focusing on transparency, tax justice, finance, social responsibility, poverty and labour issues considered that those measures are not enough, and that the good performance of the financial sector vis-a-vis the rest of the economy will have a negative effect on citizens trust, as they see again that banks do not suffer the same consequences of the crisis as the rest of society.

The rapporteurs who introduced the CBCR amendment in the European Parliament have stated that they were motivated by the lack of trust in the financial sector in the aftermath of the financial crisis, as well as wanting to enhance understanding about the tax optimisation. Several representatives of accountants and auditors emphasised that CBCR does not specifically address the issues that created the financial crisis which contributed to the decrease in trust in the financial sector, such as risk management and subprime investments, as it targets tax optimisation schemes. In that regard, it is most fitting as a response to other tax avoidance and evasion scandals such as Offshore Leaks (2013), Luxembourg Leaks (2014), Swiss Leaks (2015), Panama Papers (2016) and Paradise Papers (2017).

In any case, whether it is because of the succession of scandals like the Panama Papers or Wirecard, or because the financial crisis remains in the memory of citizens, the need to re-establish citizens' trust in the financial sector remains critical, according to a wide range of interviewed stakeholders, including various NGOs, national banking associations, accountancy firms and auditors. There is also a greater salience of the need for transparency on internal transactions, and profit shifting abuses remain a high public priority across the EU.

It is very difficult to assess the impact of CBCR by itself with regard to transparency and the efforts to regain the trust of citizens in the financial sector. Multiple initiatives have been taken in the last few years to strengthen the financial sector and protect taxpayers against the risks that may arise from the financial sector, the most notable being:

- More stringent capital requirements (Capital Requirements Directive V and Capital Requirements Regulation II);
- Crisis management framework (Bank recovery and resolution framework, Deposit guarantee schemes); and,
- Banking union (Single Supervisory Mechanism, Single Resolution Mechanism).

[168] Eurobarometer (2000). Standard Eurobarometer 93. Available at: https://europa.eu/eurobarometer/surveys/detail/2262

[169] Edelman trust barometer (2021). Trust in Financial services. Available at: https://www.edelman.com/sites/g/files/aatuss191/files/2021-04/2021%20Edelman%20Trust%20Barometer%20Trust%20in%20Financial%20Services%20Global%20Report_website%20version.pdf

[170] European Commission (2020). Press Release. Coronavirus response: Tackling non-performing loans (NPLs) to enable banks to support EU households and businesses. Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2375

[171] European Commission (2020). Communication from the Commission on tackling non-performing loans in the aftermath of the COVID-19 pandemic. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0822

Throughout all the interviews conducted, and across all different kinds of stakeholders, there is an agreement that any improvements in transparency of financial institutions and in trust in the financial sector cannot be solely attributed to the disclosures required in Article 89 CRD IV.

In the same way, CBCR is not the only transparency measure included in CRD IV which can contribute to the restoration of the trust of citizens. More specifically, the disclosure on the governance and remuneration of board members was, for instance, put forward as an example of another transparency measure under CRD that would have a greater impact on public trust.

In addition, trust can also be regained in different ways. In this regard, a bank from Luxembourg emphasised the impact of corporate social responsibility and actions taken by financial institutions to improve society in the form of ESG initiatives.

One of the main concerns regarding the relevance of CBCR is regarding who really uses the information. As consumer associations emphasised during the interviews, an average citizen is not expected to read an annual report of their and other banks as well as assess the information themselves. In fact, they are in general not aware that this information is publicly available. The information will need to be collected, analysed and presented by others such as academics, NGOs, media, etc. to citizens.

Equally, NGOs consider CBCR as only a necessary first step in the effort to regain the trust of citizens, which should be followed by further measures such as sanctions and penalties.

5.2 Tax transparency

With an increasingly globalised, mobile and digital economy and more complex business models and corporate structures, profit shifting has become easier. When companies exploit loopholes in the tax system, they are undermining the fair burden-sharing amongst taxpayers, and competitiveness[172].

In response, the OECD launched in October 2015 its BEPS project which proposes new standards aimed at reforming the system to ensure that taxes are paid where economic activity takes place. The Commission has intensively contributed to the BEPS project. BEPS Action 13 recommends a non-public CBCR for multinational companies designed with tax administrations in mind. The requirement constitutes a unique opportunity for tax authorities to have a global perspective of the activities of multinationals per jurisdiction. This information is not easily available from other sources, including tax information, and is particularly valuable for tax authorities in jurisdictions other that of the residence of the parent entity of the group. As these reports include consistent information on all the entities within a group over time and across jurisdiction, they are suited to conducting tax risk assessments[173]. In addition, the OECD uses the data from this requirement to publish CBCR information at consolidated level per jurisdiction[174]. The obligation under Article 89 CRD to

[172] European Commission (2015). Commission Staff Working Document: Corporate income taxation in the European Union. Available at: https://ec.europa.eu/taxation_customs/sites/taxation/files/docs/body/swd_2015_121.pdf

[173] OECD (2017). BEPS Action 13 CBCR: Handbook on effective Tax Risk Assessment. Available at: https://www.oecd.org/tax/beps/country-by-country-reporting-handbook-on-effective-tax-risk-assessment.pdf

[174] OECD (2021). Aggregate totals by jurisdiction. Available at: https://stats.oecd.org/Index.aspx?DataSetCode=CBCR_TABLEI

publicly disclose a country-by-country report preceded the OECD recommendations, however the preparatory work of both initiatives took place around the same time.

In addition, the Commission has implemented several initiatives, such as the Anti-tax Avoidance Package[175], which includes the Anti Tax Avoidance Directive (ATAD)[176], to reduce tax evasion and avoidance in the EU. In May 2021, the Commission published a communication for business taxation for the 21st century in which it called for an EU Tax Policy Agenda that ensured effective taxation[177]. It explained how the EU will implement the OECD BEPS initiative, and identified a few areas in which the EU will go beyond. One of the named objectives is to ensure "a greater public transparency on the taxes paid by large economic actors". To achieve this, the Commission will put forward a new proposal for the publication of the effective corporate tax rate of certain large companies. In addition, the proposed CBCR for multinational enterprises directive to also make large companies outside the financial sector publish a country-by-country report available for the wider public was politically agreed in June 2021 (see section on coherence)[178].

Country-by-country reports are considered useful for the wider public, including both consumers and citizens. Equally it remains relevant for other groups of stakeholders:

- Trade unions have emphasised the importance for workers of having information on the tax behaviour of companies of which they represent the workers, which helps them understand the financial state of the company. This can be useful for collective bargaining and has an impact on the long-term prospects of the company, as transparent companies are more profitable. A bad taxpayer is considered a bad employer.
- For SMEs, this is a matter of a level playing field. Disclosing information on tax paid helps with assessing which companies have been more corporately responsible and who is, by means of tax optimisation, obtaining an unfair competitive advantage that normally prejudices smaller companies.
- Investors' decisions might be influenced by country-by-country reports, as aggressive tax planning signals a lack of corporate responsibility and might indicate broader ESG issues. A national banking association indicated during the interviews that investor relation departments of banks have reported being asked by investors for this information. In that regard, a recent study found that CBCR helps improve both the tax and earnings information environment for investors, especially when firms have more misalignment prior to the CBCR adoptions[179].
- Despite those assertions, research by Flagmeier & Gawehn (2020)[180] found that CBCR only forms a weak element in investor decisions. Their study assesses whether investors find the introduction of public CBCR as beneficial or harmful. To this end, they used a multivariate regression model to assess whether cumulative abnormal returns differ from zero around the date that CBCR was announced (20

[175] https://ec.europa.eu/taxation_customs/anti-tax-avoidance-package_en

[176] Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market, OJ L 193, 19.7.2016, p. 1–14.

[177] European Commission (2021). Communication from the Commission to the European Parliament and the Council. Business Taxation for the 21st Century. COM(2021)251, 18.5.2021. Available at: https://ec.europa.eu/taxation_customs/system/files/2021-05/communication_on_business_taxation_for_the_21st_century.pdf

[178] Council of the EU (2021). Public country-by-country reporting by big multinationals: EU co-legislators reach political agreement. Available at: https://www.consilium.europa.eu/en/press/press-releases/2021/06/01/public-country-by-country-reporting-by-big-multinationals-eu-co-legislators-reach-political-agreement/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Public+country-by-country+reporting+by+big+multinationals%3a+EU+co-legislators+reach+political+agreement

[179] Huang, Jiang & Persson (2021). Does private country by country reporting improve the tax information environment for investors? Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3694598

[180] Flagmeier V & Gawehn V (2020). Do investors care about tax disclosure? Available at: https://www.econstor.eu/bitstream/10419/214905/1/1692603116.pdf

February 2013). They provide evidence that in general, investors view the introduction of public CBCR as beneficial, based on the fact that investors value an increase in transparency. However, when public CBCR was announced, investors reacted more negatively with regards to large EU financial institutions than to smaller ones. This means that investors were generally more concerned about the potential reputational damage the CBCR could do to large international financial EU institutions, rather than to smaller financial EU institutions.

- Tax transparency is also important for developing countries in terms of fiscal accountability. In developing countries, wealth often does not go back to society, but it is exploited by private corporations and abused by non-democratic hierarchies. Transparency is the first step to tracking the money and knowing where it is going. It enables democratic forces to raise questions.
- Policymakers such as MEPs as well as the Commission and other public officials also find it important to have access to this data. The information submitted under non-public disclosure requirement is often available only to specific tax authorities and consequently, other relevant policymakers lack data and information on the correct functioning of the tax system. Public CBCR can help fill that gap.

5.3 Conclusions

The country-by-country requirement was introduced in CRD IV as a means to restore trust in the financial sector and to provide further transparency on their tax activities. It was proposed in the aftermath of the financial crisis, when lack of confidence in the financial sector was particularly high.

Since then, the trust in the financial sector has improved, however it is still not at the same level as before the financial crisis. In addition, various scandals in relation to tax avoidance and evasion have increased awareness on the importance of tax transparency in a growingly complex and interlinked global economy, as evidenced by recent high-level agreements on the reform of the international tax system like the ongoing OECD initiatives.

As a consequence, considering the demands of multiple stakeholders with regards to corporate transparency and the multiple global and European initiatives recently implemented or proposed, improving transparency by and trust in the financial sector remains important. This means that the rationale behind the introduction of the country-by-country obligation still persist.

6 Article 89 has not lost its "raison d'être", when compared to other similar CBCR requirements

This section on coherence looks at how well or not different CBCR requirements work together. Important non-CBCR disclosure requirements have also been included, but are not exhaustive. The assessment of coherence highlights areas where there are synergies and points to objectives which might overlap, causing inefficiencies[181].

The assessment of internal coherence (looking at how the various components of the CRR and CRD operate together to achieve the objective laid down in Article 89(1) CRD) and external coherence (looking at how different pieces of legislation, with the same objective of (tax) transparency and increasing citizen's trust in the financial sector, work together) is based on desk research, legal analysis, and interviews.

6.1 Internal coherence

Building upon Basel III, which includes detailed rules of new global regulatory standards on bank capital adequacy and liquidity, CRR and CRD aim to strengthen the resilience of the EU banking sector so that it would be better placed to absorb economic shocks while ensuring that banks and investment firms continue to finance economic activity and growth[182]. A provision on country-by-country reporting was first introduced in CRD IV, in Article 89. It remains in force with the adoption of CRD V (Directive 2019/878), although its scope has been expanded to include (mixed) financial holding companies. The scope of Article 89(1) CRD IV will nevertheless be amended following the entry into force of the Investment Firms Regulation and Investment Firms Directive, given that only Class 1A and Class 1B investment firms shall, from June 2021 onwards, need to comply with CRR and CRD.

After 7 years of CRD IV implementation, it is relevant to identify the extent to which Article 89 is internally consistent and coherent, especially with similar reporting requirements in the Capital Requirements Regulation.

Article 89 "Country-by-country reporting" is part of Sub-Section 3 "Governance" in CRD IV and is the only article within the Capital Requirements Directive that deals with the public disclosure, on a country-by-country basis, by banks and investment firms of financial and non-financial information. Other public disclosure requirements, albeit not on a country-by-country basis, can be found in:

- Article 90 CRD IV on public disclosure, in the annual report, of the institution's return on assets;
- Part Eight of CRR on "Disclosure by institutions".

It is clear from this short overview that Article 89 CRD IV can be considered a stand-alone provision, with minimal links to other provisions within the same Directive. It follows that there are no cases of overlaps, contradictions or other inconsistencies in terms of the provisions, but also that there is weak internal coherence.

The great majority of interviewed national and European stakeholders did not have any opinion about internal coherence and, of those that answered, none of them mentioned a link with Article 90 CRD IV. Part Eight CRR, on the other hand, has been referred to in the

[181] See Better Regulation Toolbox, Tool #47 Evaluation criteria and questions.
[182] https://ec.europa.eu/commission/presscorner/detail/en/MEMO_13_690

context of internal coherence, as the suggestion of linking Article 89 with the disclosure requirements laid down in CRR was expressed[183]. Therefore, this particular Part Eight will be briefly discussed from a coherence point of view.

Part Eight "Disclosure by institutions" of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR) refers to public disclosure requirements for institutions, financial holding companies and mixed financial holding companies supervised under Directive 2013/36/EU. Part Eight is also commonly referred to as the "**Basel Pillar 3 disclosure obligations**" (or similar). In accordance with Article 433 of the CRR, institutions shall publish the disclosures required by EU legislation at least once a year, together with their financial statements. These disclosures mainly relate to the institutions' risk management objectives and policies for each separate category of risk, governance arrangements, own funds, basis of consolidation, capital requirements, countercyclical capital buffers, exposure to counterparty credit risk, values of the indicators of global systematic importance (where applicable), credit risk adjustments, unencumbered assets, use of external credit assessment institutions (where applicable), exposure to market risk, approaches to operational risk, exposures in equities not included in the trading book, exposure to interest rate risk on positions not included in the trading book, exposure to securitisation positions, remuneration policy and practices, and leverage ratio. However, disclosure does not need to take place on a country-by-country basis and, therefore, this Part Eight is not considered a 'similar CBCR disclosure requirement'.

It can be noted that Article 6(3) CRR includes an exemption to prevent double disclosures: "*No institution which is either a parent undertaking or a subsidiary, and no institution included in the consolidation pursuant to Article 18, shall be required to comply with the obligations laid down in Part Eight on an individual basis*." Similar exemption has not been included in the CBCR requirement laid down in Article 89 CRD.

6.2 External coherence

There are a number of reporting requirements at international and EU level that are similar to or comparable with Article 89(1) CRD IV on public CBCR for credit institutions and investment firms. Table 7 provides a high-level overview of similar public and non-public CBCR requirements and compares these, based on the type of reporting, scope of application, key objective, and information to be disclosed. Further detail on every piece of legislation/initiative mentioned in this Table is given in the following subsections.

[183] A European banking association suggested that "there should be cross-checks with the requirements in the CRR framework (Pillar 3)". A Member State's central bank stated that coherence could be ameliorated if CBCR requirements become part of IFRS disclosures or part of Pillar 3 disclosures.

Table 7: Article 89(1) CRD IV and other similar CBCR requirements

	Public CBCR						**Non-public CBCR**
	Article 89 CRD IV	**Chapter 10 Accounting Directive[184] and Article 6 Transparency Directive[185]**	**Global Reporting Initiative (GRI 207: Tax)**	**Extractive Industries Transparency Initiative (EITI)**	**Article 27 Directive (EU) 2019/2034**	**Provisional Chapter 10a Accounting Directive[186]**	**DAC4**
General characteristics							
Mandatory (y/n)	Yes	Yes	No	No	Yes	Yes	Yes
Legal basis	EU Directive	EU Directive, implementing EITI	GRI 207 Standard	EITI Standard	EU Directive	EU Directive	EU Directive, implementing OECD BEPS Action 13
Type of reporting	Annex to the (consolidated) financial statement. No model template.	Part of a company's annual financial reporting obligations.	Inclusion in the sustainability report according to global reporting standard.	According to model template.	Annex to the (consolidated) financial statement. No model template.	Report on income tax information. Common template and electronic reporting format which is machine-readable.	Filing with tax authorities according to model template.
Scope of application	Credit institutions and Class 1A and Class 1B investment firms operating in the EU.	EU public-interest entities (notably listed entities) and large EU undertakings active in the extractive or	Any organisation (large or small, private or public) that identifies its material to report on its	All companies extracting natural resources operating in a country implementing EITI.	Class 2 investment firms	Ultimate parent undertakings or standalone undertakings, whether headquartered in the EU or outside, with a total consolidated revenue of more than EUR 750 million (in	Multinational companies with consolidated group revenues in excess of EUR 750 million in the previous accounting period.

[184] Directive 2013/34/EU.
[185] Directive 2004/109/EC.
[186] Provisional upon final publication of the Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches.

	Public CBCR						Non-public CBCR
	Article 89 CRD IV	**Chapter 10 Accounting Directive[184] and Article 6 Transparency Directive[185]**	**Global Reporting Initiative (GRI 207: Tax)**	**Extractive Industries Transparency Initiative (EITI)**	**Article 27 Directive (EU) 2019/2034**	**Provisional Chapter 10a Accounting Directive[186]**	**DAC4**
		logging of primary forests industry.	impact related to taxes.			each of the last two consecutive financial years) and that are active in more than one country. Limited to medium-sized or large subsidiaries established in the Union, or branches of a comparable size opened in a Member State.	
Key objective	Increase transparency to ensure the trust of citizens of the Union in the financial sector.	Promote enhanced transparency and accountability of payments made to governments, large undertakings and public-interest entitities active in the the extractives and logging industry. Help governments of resource-rich countries to implement the EITI	Enable organisations to be transparent and take responsibility for their impacts.	Improve transparency and accountability of extractives regimes in natural resource-rich countries with a view to strengthening governance.	Increase tax transparency and promote investment firms' corporate responsibility.	Fight tax avoidance and aggressive tax planning, both at EU and global level. Increase corporate transparency and responsibility and enhance public scrutiny. Regain the trust of citizens of the Union in the fairness of the national tax systems.	Curtail tax avoidance and aggressive tax planning in cross-border cases and ensure that profits are taxed where they are made.

	Public CBCR						Non-public CBCR
	Article 89 CRD IV	**Chapter 10 Accounting Directive[184] and Article 6 Transparency Directive[185]**	**Global Reporting Initiative (GRI 207: Tax)**	**Extractive Industries Transparency Initiative (EITI)**	**Article 27 Directive (EU) 2019/2034**	**Provisional Chapter 10a Accounting Directive[186]**	**DAC4**
		principles and criteria and account to their citizens for payments made to such governments.					
Threshold	Threshold included in the classification of Class 1A and Class 1B investment firm. No threshold for credit institutions.	Payments (singular or series) exceeding EUR 100,000 within a financial year.	No threshold	No threshold	Threshold included in the classification of Class 2 investment firms.	A total consolidated revenue of at least EUR 750 million per year, as reflected in the financial statements of the last two consecutive financial years.	EUR 750 million total consolidated group revenue.
Aggregation of data	By institution, by Member State and by third country in which institutions have an establishment.	By country, by project and by government	By tax jurisdiction of operation	By government	By institution, by Member State and by third country in which firms have an establishment.	By Member State, by non-cooperative jurisdiction for tax purposes	By tax jurisdiction of operation
Auditing (y/n)	Yes	Dependent on MS laws	Yes	No	Yes	Yes	No
Information to be disclosed							
Basic information							
Entity name	✓		✓		✓	✓	✓
Activities	✓		✓		✓	✓	✓

	Public CBCR						Non-public CBCR
	Article 89 CRD IV	Chapter 10 Accounting Directive[184] and Article 6 Transparency Directive[185]	Global Reporting Initiative (GRI 207: Tax)	Extractive Industries Transparency Initiative (EITI)	Article 27 Directive (EU) 2019/2034	Provisional Chapter 10a Accounting Directive[186]	DAC4
Geographical location/ tax jurisdiction	✓	✓	✓		✓		✓
Governing law			✓				✓
Turnover/ revenue	✓		✓		✓	✓	
Project name		✓					
Receiving government		✓					
Currency used						✓	
Financial year concerned						✓	✓
List of subisidiary undertakings / Constituent Entities						✓ (established in EU or in non-cooperative jurisdiction for tax purposes)	✓
Financial data							
Revenue aggregated total							✓
Revenues from third parties			✓				✓
Revenues from/ transactions with related parties						✓	✓
Profit or loss before tax	✓		✓	✓	✓	✓	✓

	Public CBCR						Non-public CBCR
	Article 89 CRD IV	**Chapter 10 Accounting Directive[184] and Article 6 Transparency Directive[185]**	**Global Reporting Initiative (GRI 207: Tax)**	**Extractive Industries Transparency Initiative (EITI)**	**Article 27 Directive (EU) 2019/2034**	**Provisional Chapter 10a Accounting Directive[186]**	**DAC4**
Tangible assets other than cash or cash equivalents			✓				✓
Stated capital							✓
Accumulated earnings						✓	✓
Tax data							
Accrued taxes (i.e. tax charges currently due)			✓	✓		✓	✓
Deferred taxes (i.e. tax charges that may become due in a later year)			✓				
Taxes paid (i.e. the amount of income tax paid during the relevant financial year)	✓	✓	✓		✓	✓ (including withholding taxes paid)	✓ (including withholding taxes paid)
Other data							
Public subsidies received	✓		✓		✓		
Dividends		✓		✓			
Royalties		✓		✓			

	Public CBCR						**Non-public CBCR**
	Article 89 CRD IV	**Chapter 10 Accounting Directive[184] and Article 6 Transparency Directive[185]**	**Global Reporting Initiative (GRI 207: Tax)**	**Extractive Industries Transparency Initiative (EITI)**	**Article 27 Directive (EU) 2019/2034**	**Provisional Chapter 10a Accounting Directive[186]**	**DAC4**
Licensc fees, rental fees, entry fees		✓		✓			
Signature, discovery and production bonuses		✓		✓			
Production entitlements		✓					
Payments for infrastructure improvements		✓					
People data							
Number of employees	✓		✓		✓	✓	✓

The following subsections provide a more detailed overview of these similar CBCR requirements and ask the question whether there is any overlap, inconsistency or redundancy with Article 89(1) CRD IV. The results from the EU and national stakeholder interviews are included as well.

6.2.1 Chapter 10a "Report on income tax information" Accounting Directive[187]

The Council of the EU and the European Parliament announced on 1 June 2021 that they have reached a provisional political agreement on the proposed directive on the disclosure of income tax information by certain undertakings and branches, commonly referred to as the public country-by-country reporting (CBCR) directive[188]. The agreed text provided an answer to the Panama Papers tax scandal in 2016.

Objective

The proposed directive tackles "the need for an ambitious public country-by-country reporting as a means of increasing corporate transparency and enhancing public scrutiny" (Recital 2) and the "fight against corporate income tax avoidance" (Recital 2).

Scope of application

- EU ultimate parent undertakings with at least EUR 750 million consolidated revenues as reflected in their consolidated financial statements of the last two consecutive financial years;
- EU standalone undertakings with at least EUR 750 million total revenues as reflected in their annual financial statements of the last two consecutive financial years;
- Large and medium-sized subsidiaries in the EU controlled by a third country ultimate parent undertaking with at least EUR 750 million consolidated revenues;
- Large or medium-sized branches in the EU controlled by a third country undertaking with at least EUR 750 million (consolidated) revenues.

Information requirements to be disclosed

a) The name of the ultimate parent undertaking or the standalone undertaking, financial year concerned, the currency used and, where applicable, a list of all its subsidiary undertakings consolidated in the financial statement of the ultimate parent undertaking, in respect of the relevant financial year, established in the Union or in tax jurisdictions included in Annex I and Annex II of the Council conclusions on the EU list of non-cooperative jurisdictions for tax purposes;
b) A brief description of the nature of their activities;
c) The number of employees on a full-time equivalent basis;
d) The revenues[189] which are:
e) (i) the sum of the net turnover, other operating income, income from participating interests, excluding dividends received from affiliated undertakings, income from other investments and loans forming part of the fixed assets, other interest receivable and similar income as listed in Annexes V and VI of this Directive, or
f) (ii) the income as defined by or within the meaning of the financial reporting framework on the basis of which financial statements are prepared, excluding value adjustments and dividends received from affiliated undertakings;

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[187] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CONSIL:ST_9547_2021_INIT&from=EN

[188] The provisionally agreed text will be submitted to the relevant bodies of the Council and of the European Parliament for political endorsement. If such endorsement takes place, the Council will adopt its position at first reading on the basis of the agreed text (subject to standard legal-linguistic scrutiny). The European Parliament should then approve that Council's position and the directive will be deemed to have been adopted. https://www.consilium.europa.eu/en/press/press-releases/2021/06/01/public-country-by-country-reporting-by-big-multinationals-eu-co-legislators-reach-political-agreement/

[189] The revenues shall include transactions with related parties.

g) The amount of profit or loss before income tax;
h) The amount of income tax accrued during the relevant financial year which is the current tax expense recognised on taxable profits or losses of the financial year by undertakings and branches in the relevant tax jurisdiction[190];
i) The amount of income tax paid on cash basis which is the amount of income tax paid during the relevant financial year by undertakings and branches in the relevant tax jurisdiction[191]; and
j) The amount of accumulated earnings at the end of the relevant financial year[192].

Importantly, Member States shall, in order to avoid administrative burden, permit the information listed above to correspond to the DAC4 CBCR specifications.

The proposed Directive states that the information in the country-by-country report shall be presented using a common template and electronic reporting formats which are machine-readable. The report on income tax information shall be published on the website of the undertaking, the website of the subsidiary undertaking, the website of an affiliated undertaking or the website of the branch – depending on specific conditions that must apply, or, alternatively on the website of the register referred to in Article 16 of Directive (EU) 2017/1132.

The tax information shall be published for each EU Member State as well as for each third country listed on:

- the EU list of non-cooperative jurisdictions (Annex I of the Council conclusions on non-cooperative jurisdictions for tax purposes[193]), or
- the "Grey List" list (Annex II of the Council conclusions on non-cooperative jurisdictions for tax purposes) for two consecutive years.

Moreover, information concerning the operations of multinational enterprises should also be shown on an aggregated basis as regards other third-country tax jurisdictions.

Member States may allow MNEs to defer disclosing certain information for five years, when such disclosure would be seriously prejudicial to the commercial position of the undertakings to which it relates, and provided that any omission shall be clearly indicated in the report together with a duly reasoned explanation regarding its causes.

Conclusions

There is an apparent similarity between the CBCR regime laid down in Article 89 CRD IV and the more general public CBCR requirements envisaged in Chapter 10a of the Accounting Directive, especially with regard to the information requirements to be disclosed. It must be highlighted that most of the disclosure requirements laid down in Chapter 10a of the Accounting Directive have been worded in a more detailed manner than the terms used in Article 89 CRD IV and, hence, the majority if not all interpretational difficulties might be solved, e.g. the requirements to disclose both income tax accrued and income tax paid (instead of "tax on profit or loss"). Further, Chapter 10a Accounting Directives requires the disclosure of the amount of accumulated earnings,

[190] The current tax expense shall relate only to the activities of an undertaking in the current financial year and shall not include deferred taxes or provisions for uncertain tax liabilities.
[191] Taxes paid shall include withholding taxes paid by other undertakings with respect to payments to undertakings and branches within a group.
[192] The accumulated earnings shall mean the sum of the profits of past financial years and the relevant financial year not decided for distribution. With regard to branches, accumulated earnings shall be reported by the undertaking which opened a branch.
[193] Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, 2021/C 66/10, available at: https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=uriserv:OJ.C_.2021.066.01.0040.01.ENG

the transactions with related parties, the list of all subsidiary undertakings and the currency used, while Article 89 CRD IV includes information on the public subsidies received.

The new public CBCR regime would only apply to very large undertakings (with at least EUR 750 million consolidated revenues), while the amended CRD regime applies to all credit institutions and Class 1A and Class 1B investment firms. In addition, under Article 89 CRD IV, reporting undertakings are required to break down the data per country both in the EU and in third countries while, under the new CBCR regime, such breakdown is only required within the EU and for countries listed on the common EU list of tax jurisdictions, while for other third countries aggregate data can be provided. Further, the proposed public CBCR regime includes substantial detail as to its application to EU branches and subsidiaries of non-EU undertakings – something that is not obvious under Article 89 CRD IV.

To avoid a possible double CBCR disclosure obligation for those credit institutions that fall within the scope of application of both regimes, the proposed Directive rightly includes an exemption clause to avoid double reporting for the banking sector: "*Member States shall not apply the rule set out in paragraph 1 of this Article to standalone undertakings and ultimate parent undertakings where such undertakings or their affiliated undertakings disclose a report in accordance with Article 89 of Directive 2013/36/EU and encompass, in that report, information on all their activities and all the activities of all the affiliated undertakings included in the consolidated financial statement of those ultimate parent undertakings.*" (Article 48b(2))

To conclude, Article 89 CRD IV has not lost its "raison d'être", given that significantly less credit institutions would fall under the proposed public CBCR regime. In particular, credit institutions with at most EUR 750 million consolidated revenues which are internationally active, as well as EU branches of such non-EEA institutions would still need to report under CRD. Excluding these credit institutions would seem contrary to the objective of Article 89 CRD IV, which is to regain the trust of citizens of the Union in the financial sector[194]. Equally, further coherence and harmonisation between Article 89 CRD IV and the proposed public CBCR directive would lead to comparable disclosure information for both large and smaller banks.

6.2.2 Article 27 Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms

Directive (EU) 2019/2034 establishes a specific prudential regime for investment firms which are not systemic by virtue of their size and their interconnectedness with other financial and economic actors, and consequently amends the scope of application of CRR and CRD. Article 27 of Directive (EU) 2019/2034 includes a detailed country-by-country public reporting obligation.

Objective

In response to the growing public demand for tax transparency, and to promote investment firms' corporate responsibility, it is appropriate to require that, unless they qualify as small and non-interconnected, investment firms disclose, on an annual basis, certain information, including information on profits made, taxes paid and any public subsidies received (Recital 29).

[194] A similar conclusion was also reached in the Impact Assessment assessing the potential for further transparency on income tax information, accompanying the document Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches, SWD(2016)117.

Scope of application

Class 2 investment firms that have a branch or subsidiary that is a financial institution as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013[195].

Information requirements to be disclosed

a) The name, nature of activities and location of any subsidiaries and branches;
b) Turnover;
c) The number of employees on a full-time equivalent basis;
d) Profit or loss before tax;
e) Tax on profit or loss;
f) The public subsidies received.

Conclusions

The similarity between Article 89 CRD IV and Article 27 Directive (EU) 2019/2034 is overwhelming, not only with regard to the information requirements to be disclosed but also in relation to the auditing requirement[196] and the introductory sentence[197]. This is mainly due to the fact that Directive (EU) 2019/2034 amends the scope of application of CRD in the sense that, with regard to investment companies, Article 89 CRD becomes applicable to Class 1A and Class 1B investment firms, while Article 27 Directive (EU) 2019/2034 is applicable to Class 2 investment firms[198]. Class 3 investment firms, on the other hand, will no longer be obliged to disclose on a country-by-country basis (see Article 25 Directive (EU) 2019/2034). Consequently, there is no overlap between these two sectoral CBCR disclosure requirements. Remarkably, the various disclosure requirements have not been further defined or explained within Directive (EU) 2019/2034, even though (see Chapter 3) the terms used can be interpreted in various ways.

It is to be noted that Directive (EU) 2019/2034 explicitly refers to tax transparency when setting out the objective of its Article 27 while CRD has consciously stayed away from any reference to tax implications.

6.2.3 EITI, Chapter 10 "Report on payments to government" Accounting Directive, and Article 6 Transparency Directive

Besides the strong political and financial support for the EITI, the EU has adopted a mandatory disclosure requirement that requires listed and large unlisted industries active in the extractive (oil, gas and mining) and logging of primary forest sectors to disclose their payments to governments on a country and project basis. Chapter 10 in the Accounting Directive and Article 6 in the Transparency Directive were adopted in

[195] Point (26) of Article 4(1) of Regulation (EU) No 575/2013(26): *'financial institution' means an undertaking other than an institution and other than a pure industrial holding company, the principal activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12 and point 15 of Annex I to Directive 2013/36/EU, including a financial holding company, a mixed financial holding company, a payment institution as defined in point (4) of Article 4 of Directive (EU) 2015/2366 of the European Parliament and of the Council (8), and an asset management company, but excluding insurance holding companies and mixed-activity insurance holding companies as defined, respectively, in points (f) and (g) of Article 212(1) of Directive 2009/138/EC*.

[196] Art. 27(2): "*The information referred to in paragraph 1 of this Article shall be audited in accordance with Directive 2006/43/EC and, where possible, shall be annexed to the annual financial statements or, where applicable, to the consolidated financial statements of that investment firm*."

[197] Art. 27(1): "*Member States shall require investment firms that have a branch or subsidiary that is a financial institution as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013 in a Member State or in a third country other than that in which the authorisation of the investment firm was granted to disclose the following information by Member State and third country on an annual basis*: […]"

[198] The thresholds for being classified under Class 3 are defined within Article 12 of the IFR. If an investment firm meets the threshold metrics mentioned in this Article, it will be classified as a Class 3 investment firm. If the values of the elements exceed the threshold, the investment firm is then considered Class 2 and will need to comply with the complete IFR/ IFD regulation.

June 2013, with the objective of enhancing transparency by providing relevant information to civil societies and Parliaments in order for them to hold governments to account on receipts from multinationals for exploiting natural resources[199].

Objective

"In order to provide for enhanced transparency of payments made to governments, large undertakings and public-interest entities which are active in the extractive industry or logging of primary forests should disclose material payments made to governments in the countries in which they operate in a separate report, on an annual basis. Such undertakings are active in countries rich in natural resources, in particular minerals, oil, natural gas and primary forests. The report should include types of payments comparable to those disclosed by an undertaking participating in the Extractive Industries Transparency Initiative (EITI). […] The report should serve to help governments of resource-rich countries to implement the EITI principles and criteria and account to their citizens for payments such governments receive from undertakings active in the extractive industry or loggers of primary forests operating within their jurisdiction." (Recitals 44-45 Directive 2013/34/EU).

Scope of application

EU public-interest entities (notably listed entities) and large EU undertakings active in the extractive industry or the logging of primary forests.

Information requirements to be disclosed

a) Production entitlements;
b) Taxes levied on the income, production or profits of companies, excluding taxes levied on consumption such as value added taxes, personal income taxes or sales taxes;
c) Royalties;
d) Dividends;
e) Signature, discovery and production bonuses;
f) Licence fees, rental fees, entry fees and other considerations for licences and/or concessions; and
g) Payments for infrastructure improvements.

Conclusions

Apart from the fact that both Article 89 CRD IV and Chapter 10 of the Accounting Directive introduce public country-by-country reporting, their objective, scope of application and disclosure requirements are completely different. Chapter 10 of the Accounting Directive applies only to the extractive and logging sectors, and the relevant undertakings need to disclose payments to governments (i.e. corporation tax, but also mining royalties, licence fees and bonus payments), but not number of employees, turnover, profits, public subsidies or nature and location of activities. Further, EITI's and the Accounting Directive's aim is to inform local communities of the amounts that are paid by extractive and logging companies working in their region to allow local communities to hold their governments to account. This is indeed a different aim from that set out for Article 89 CRD IV. Consequently, there is no overlap between these two sectoral CBCR disclosure requirements. Nevertheless, it is noted that Chapter 10 of the Accounting Directive on reports of payments to governments by the extractive and logging sectors has a provision that precludes double reporting.

[199] https://eiti.org/supporter/european-commission

6.2.4 OECD BEPS Action 13 and Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

OECD BEPS Action 13, implemented in Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (DAC4) lays down a country-by-country reporting obligation, but the data to be reported is not to be made publicly available[200].

Objective

"The challenge posed by tax fraud and tax evasion has increased considerably and has become a major focus of concern within the Union and at global level. The automatic exchange of information constitutes an important tool in this regard. […] Member States' tax authorities need comprehensive and relevant information on MNE Groups regarding their structure, transfer-pricing policy and internal transactions in and outside the Union. That information will enable the tax authorities to react to harmful tax practices by making changes in legislation or by undertaking adequate risk assessments and tax audits, and to identify whether companies have engaged in practices that have the effect of artificially shifting substantial amounts of income into tax-advantaged environments" (Recitals 1 and 3 DAC4).

Scope of application

Multinational (MNE) Groups[201] located in the EU or with operations in the EU, with total consolidated revenues in excess of EUR 750 million in the previous accounting period.

Information requirements to be reported

The country-by-country report shall include the following information for every tax jurisdiction in which the MNE group does business:

a) Tax jurisdiction;
b) Revenues[202] – unrelated party[203];
c) Revenues – related party[204];
d) Revenues – total;
e) Profit (loss) before income tax[205];
f) Income tax paid (on cash basis)[206];

[200] DAC4 is almost identical to OECD BEPS Action 13, unlike other BEPS Actions like MDR or tax rulings where there are significant differences between the OECD and EU equivalents.

[201] The term "MNE Group" means any Group that includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and is not an Excluded MNE Group. (Annex III, Section 1, point 3 Council Directive 2011/16/EU).

[202] Revenues shall include revenues from sales of inventory and properties, services, royalties, interest, premiums and any other amounts. Revenues shall exclude payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction.

[203] The sum of revenues of all the Constituent Entities of the MNE Group in the relevant tax jurisdiction generated from transactions with independent parties.

[204] The sum of revenues of all the Constituent Entities of the MNE Group in the relevant tax jurisdiction generated from transactions with associated enterprises.

[205] The sum of the profit (loss) before income tax for all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The profit (loss) before income tax shall include all extraordinary income and expense items.

[206] The total amount of income tax actually paid during the relevant Fiscal Year by all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. Taxes paid shall include cash taxes paid by the Constituent Entity to the residence tax jurisdiction and to all other tax jurisdictions. Taxes paid shall include withholding taxes paid by other entities (associated enterprises and independent enterprises) with respect to payments to the Constituent Entity. Thus, if company A resident in tax jurisdiction A earns interest in tax jurisdiction B, the tax withheld in tax jurisdiction B shall be reported by company A.

g) Income tax accrued – current year[207];
h) Stated capital[208];
i) Accumulated earnings[209];
j) Number of employees[210];
k) Tangible assets other than cash and cash equivalents[211].

In addition, the reporting MNE shall list, on a tax-jurisdiction-by-tax-jurisdiction basis and by legal entity name, all the Constituent Entities[212] of the MNE Group which are resident for tax purposes in the relevant tax jurisdiction. The permanent establishment shall be listed by reference to the tax jurisdiction in which it is situated.

The country-by-country report has to be filed – following the standard template as included in the Action 13 Report of the OECD[213] and included in Annex III Section III of Council Directive 2011/16/EU – in the Member State in which the ultimate parent entity of the MNE Group or any other reporting entity is a resident for tax purposes[214]. The competent authority of the Member State that received the country-by-country report shall, by automatic exchange, communicate the report to any other Member State(s) in which one or more Constituent Entities (i.e. companies) of the MNE Group are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment there.

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[207] The sum of the accrued current tax expense recorded on taxable profits or losses of the year of reporting of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The current tax expense shall reflect only operations in the current year and shall not include deferred taxes or provisions for uncertain tax liabilities.

[208] The sum of the stated capital of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, the stated capital shall be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.

[209] The sum of the total accumulated earnings of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction as of the end of the year. With regard to permanent establishments, accumulated earnings shall be reported by the legal entity of which it is a permanent establishment.

[210] The total number of employees on a full-time equivalent (FTE) basis of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The number of employees may be reported as of the year-end, on the basis of average employment levels for the year, or on any other basis consistently applied across tax jurisdictions and from year to year. For this purpose, independent contractors participating in the ordinary operating activities of the Constituent Entity may be reported as employees. Reasonable rounding or approximation of the number of employees is permissible, providing that such rounding or approximation does not materially distort the relative distribution of employees across the various tax jurisdictions. Consistent approaches shall be applied from year to year and across entities.

[211] The sum of the net book values of tangible assets of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, assets shall be reported by reference to the tax jurisdiction in which the permanent establishment is situated. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

[212] The term "Constituent Entity" means any of the following:
(a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
(b) any such business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds;
(c) any permanent establishment of any separate business unit of the MNE Group included in (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes. (Annex III, Section 1, point 5 Council Directive 2011/16/EU)

[213] The OECD has released a standardised electronic format for the exchange of country-by-country reports between jurisdictions (the so-called CBCR XML Schema) as well as a user guide. See: https://www.oecd.org/ctp/exchange-of-tax-information/country-by-country-reporting-xml-schema-user-guide-for-tax-administrations.htm

[214] An MNE group may also nominate a constituent entity to act as a surrogate parent entity and file a country-by-country report on a voluntary basis. In this case, the surrogate parent entity may also be the ultimate parent entity of an MNE group (e.g. this may be done where the jurisdiction of the ultimate parent entity does not require the filing of country-by-country reports for a particular reporting fiscal period, but has its legislation in place and allows filing on a voluntary basis) or it may be a constituent entity in a different jurisdiction which has an International Agreement allowing the exchange of information. See Annex III, Section II, point 1 Council Directive 2011/16/EU.

Annex III Section III of Council Directive 2011/16/EU further includes instructions with regard to the treatment of branches and permanent establishments, the period covered by the annual template and the source of the data. Specific instructions are given for filling in the country-by-country report.

Conclusions

Although DAC4 relates to non-public CBCR, applies to MNEs with more than EUR 750 million revenue (hence including only the minority of the banking groups subject to CBCR under CRD) and mainly aims to curtail tax avoidance and aggressive tax planning, the information requirements to be reported partly overlap with those laid down in Article 89 CRD IV. It is noted that Annex III, Section 3 of Council Directive 2011/16/EU includes "specific instructions for filling in the country-by-country report" and explains how each indicator needs to be interpreted and calculated. These interpretations are thus laid down in the Directive itself, contrary to the similar terms used in CRD which are more open to interpretation. Further, DAC4 requires CBCR on the list of Constituent Entities, total aggregated revenue, revenues from third parties and revenues from related parties, tangible assets, stated capital, accumulated earnings and current taxes, while Article 89 CRD IV includes information on the public subsidies received.

Given that large banks and investment firms with total consolidated group revenues in excess of EUR 750 million in the previous accounting period will need to disclose under CRD IV and report under DAC4, it is evident that the reporting burden on these institutions could be reduced if, for those items which have to be reported under both Article 89 and under the DAC4 template, the requirements – and their interpretations – could be made equivalent. It is also noted that DAC4 does not include an exemption to prevent double reporting, as in the proposed public CBCR Directive.

Although there is significant overlap with Article 89 CRD IV in terms of indicators and institutions covered, DAC4 aims to curtail tax avoidance and aggressive tax planning while the aim of CRD is to restore the trust of citizens in the financial sector.

6.2.5 GRI 207 Disclosure 207-4 Country-by-country reporting

The new GRI Tax Standard (GRI 207), which came into effect for reporting from 2021, is the first and only globally applicable (voluntary) public reporting standard for tax transparency. It sets expectations for disclosure of tax payments on a CBCR basis, alongside tax strategy and governance. Some multinational companies are already voluntarily implementing tax disclosure at country level. Early adopters Philips, BP, Ørsted, Allianz and Newmont have all begun using GRI 207 for their tax reporting.

Objective

"This project aimed to help promote greater transparency on an organisation's approach to taxes"[215].

Scope of application

Any organisation (large or small, private, or public) that identifies it material to report on its impact related to taxes

Information requirements to be disclosed

For each tax jurisdiction of each entity included in the organisation's audited consolidated financial statements, the following shall be reported:

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[215] https://www.globalreporting.org/standards/standards-development/topic-standard-project-for-tax/

a) Names of the resident entities;
b) Primary activities of the organisation[216];
c) Number of employees, and the basis of calculation of this number[217];
d) Revenues from third-party sales;
e) Revenues from intra-group transactions with other tax jurisdictions[218];
f) Profit/loss before tax;
g) Tangible assets other than cash and cash equivalents;
h) Corporate income tax paid on a cash basis[219];
i) Corporate income tax accrued on profit/loss[220];
j) Reasons for the difference between corporate income tax accrued on profit/loss and the tax due if the statutory tax rate is applied to profit/loss before tax[221].

In addition to this information, the organisation can report any other information relevant for understanding the scale of its activity within a jurisdiction.

The data reported for d), f), g) and h) shall be reconciled with the data stated in the audited consolidated financial statements, or the financial information filed on public record.

Conclusions

Although GRI 207 is a voluntary tax standard and applies to any organisation, the information requirements to be reported partly overlap with those laid down in Article 89 CRD IV. Organisations that have adopted the GRI framework may therefore already be reporting some of the information requirements included in Article 89, but the extent of the report and the level at which the information is disclosed will be determined by the reporting organisation based on its materiality considerations and on what it views as important to its stakeholders.

The GRI 207 document[222] further includes guidance for disclosure of every single information requirement, stating e.g. that "*When reporting profit/loss before tax for a tax jurisdiction, the organization can calculate the consolidated profit/loss before tax for all its resident entities in the jurisdiction*". This guidance is laid down in the tax standard, contrary to the similar terms used in CRD IV which are more open to interpretation.

Given that banks and investment firms need to disclose under CRD IV and might want to disclose as well following the GRI 207 standard, it is evident that the reporting burden

[216] When reporting its primary activities in a tax jurisdiction, the organisation can provide a general description such that a report reader can clearly identify the organisation's main activities in the jurisdiction, for example, sales, marketing, manufacturing, or distribution. The organisation is not required to list the activities of each entity in the jurisdiction.
[217] Employee numbers can be reported using an appropriate calculation, such as head count at the end of the time period reported in Disclosure 207-4 or a full-time equivalent (FTE) calculation. To enable comparability, it is important that the organisation applies the approach consistently across all tax jurisdictions and between time periods.
[218] Intra-group transactions within the same tax jurisdiction are not required, but the organisation can report this information separately.
[219] When reporting corporate income tax paid on a cash basis for a tax jurisdiction, the organisation can calculate the total actual corporate income tax paid during the time period reported in Disclosure 207-4 by all its resident entities in the jurisdiction. This includes cash taxes paid by entities to the jurisdiction of residence and to all other jurisdictions (e.g. withholding taxes incurred in other tax jurisdictions). If the tax paid includes a significant amount of withholding tax, the organisation can explain this. If taxes are incurred in other tax jurisdictions, the organisation can report the amount of tax paid to the other tax jurisdictions separately and identify the jurisdictions where the tax was paid.
[220] Excluding deferred corporate income tax and provisions for uncertain tax positions.
[221] When reporting the reasons for the difference between corporate income tax accrued on profit/loss and the tax due if the statutory tax rate is applied to profit/loss before tax, the organisation can describe items that explain the difference, such as tax reliefs, allowances, incentives, or any special tax provisions where an entity benefits from preferential tax treatment.
[222] Available here: https://www.globalreporting.org/standards/standards-development/topic-standard-project-for-tax/

on these institutions could be reduced if, for those items which have to be reported under both Article 89 and under GRI 207, the requirements – and their interpretations – could be made equivalent.

6.2.6 Segment reporting

Given that some stakeholders interviewed (in particular a central bank and an accountancy association) have referred to "segment reporting" as a "similar existing disclosure requirement", this subsection shortly explains its possible interaction with Article 89 CRD IV.

Segment reporting is the reporting of the operating segments of a company in the disclosures accompanying its financial statements[223]. It is intended to give information to investors and creditors regarding the financial results and position of the most important operating units of a company. Segment reporting requirements are laid down in IFRS 8 "Operating segments" and apply to entities whose equity or debt securities are publicly traded or who issued, or are in the process of issuing, any class of instrument in a public market. The scope also includes entities that file financial statements with a regulatory organisation for the purpose of issuing any instruments in a public market.

Reportable segments are operating segments or aggregations of operating segments that meet specified criteria (IFRS 8.13). Two or more operating segments may be aggregated into a single operating segment if aggregation is consistent with the core principles of the standard, the segments have similar economic characteristics and are similar in various prescribed respects. Consequently, country segments may be aggregated if they have similar economic characteristics. Operating segments are identified by the chief operating decision maker (CODM).

Information requirements to be disclosed

Required disclosures include[224]:

a) General information about how the entity identified its operating segments and the types of products and services from which each operating segment derives its revenues [IFRS 8.22];
b) Judgements made by management in applying the aggregation criteria to allow two or more operating segments to be aggregated [IFRS 8.22(aa)];
c) Information about the profit or loss for each reportable segment, including certain specified revenues and expenses such as revenue from external customers and from transactions with other segments, interest revenue and expense, depreciation and amortisation, income tax expense or income and material non-cash items [IFRS 8.21(b) and 23];
d) A measure of total assets and total liabilities for each reportable segment, and the amount of investments in associates and joint ventures and the amounts of additions to certain non-current assets ('capital expenditure') [IFRS 8.23-24];
e) An explanation of the measurements of segment profit or loss, segment assets and segment liabilities, including certain minimum disclosures, e.g. how transactions between segments are measured, the nature of measurement differences between segment information and other information included in the financial statements, and asymmetrical allocations to reportable segments [IFRS 8.27];
f) Reconciliations of the totals of segment revenues, reported segment profit or loss, segment assets, segment liabilities and other material items to corresponding items in the entity's financial statements [IFRS 8.21(b) and 28];
g) Some entity-wide disclosures that are required even when an entity has only one reportable segment, including information about each product and service or groups of products and services [IFRS 8.32];

[223] https://www.accountingtools.com/articles/what-is-segment-reporting.html
[224] Taken from: https://www.iasplus.com/en/standards/ifrs/ifrs8

h) Analyses of revenues and certain non-current assets by geographical area – with an expanded requirement to disclose revenues/assets by individual foreign country (if material), irrespective of the identification of operating segments [IFRS 8.33];
i) Information about transactions with major customers [IFRS 8.34].

Conclusions

The application of IFRS 8 Operating Segments, in conjunction with IAS 12 Income Taxes, means that (tax) information is usually available at the consolidated level, not at the country level. In contrast, CBCR in line with Article 89 CRD IV requires country-level disclosure[225]. Consequently, banks and investments firms may have to report IFRS standards and CBCR requirements and therefore need to prepare two different sets of reports on similar information requirements (profit or loss before tax, turnover, tax on profit or loss). Thus, the disclosure requirements under Article 89 CRD IV are to some extent incoherent with the disclosure requirements under IFRS 8.

6.3 Similar disclosure requirements in three non-EEA countries

This sub-section looks at public and non-public CBCR requirements, as well as other tax transparency initiatives, in three non-EEA countries.

The **United Kingdom** has transposed Article 89(1) CRD IV by the Capital Requirements (Country-by-Country Reporting) Regulations 2013 (SI 2013/3118) of 9 December 2013, which have been amended by the Capital Requirements (Amendment) (EU Exit) Regulations 2018 (SI 2018/1401)[226]. Due to Brexit, the Regulations have now omitted the provisions on the prevention of duplication where information relating to an institution has already been published in another EEA State. Points (a) to (f) of Article 89 CRD IV have been literally transposed, with the specification for (e) that it relates to "corporation tax paid". In addition, a definition is provided for "average number of employees". No additional indicators have been included in the transposing legislation. All information shall be published in accordance with accepted accounting standards (i.e. IFRS) on a consolidated basis for each country in which the institution has a subsidiary or branch, or both. Further, the UK has also transposed Chapter 10 of the Accounting Directive, in Section 122 of the Finance Act 2015 and the Taxes (Base Erosion and Profit Shifting) (Country by Country Reporting) Regulations 2016.

No other CBCR requirements have been legislated in the United Kingdom, but the country has introduced two important voluntary and one mandatory initiative aimed at tax transparency. The Finance Act 2016 sets out the requirement for large[227] UK companies, partnerships, groups and sub-groups to publish an annual UK Tax Strategy. The aim of the legislation is to increase transparency around taxation by making it mandatory for businesses to explain their tax arrangements. A Tax Strategy should, if it is to meet HM Revenue and Customs' requirements, be published on the internet free of charge. Notably, the information to be included in any of the Tax Strategies does not include country-by-country reporting. However, the Treasury may by regulations require the group

[225] R.J. Brown, B.N. Jorgensen & P.F. Pope, "The interplay between mandatory country-by-country reporting, geographic segment reporting, and tax havens: Evidence from the European Union", Journal of Accounting and Public Policy, Volume 38, Issue 2, March–April 2019, Pages 106-129.

[226] Gibraltar has literally transposed Article 89 CRD IV in Regulation 91(1) of Financial Services (Capital Requirements Directive IV) Regulations 2013, Legal Notice No.198 of 2013 (LN 2013/198). They were repealed and replaced by Financial Services (Credit Institutions and Capital Requirements) Regulations 2020, Legal Notice No.37 of 2020 (LN 2020/037). National transposing legislation does not provide any further definitions or guidance on the indicators.

[227] if in the previous tax year:
- turnover exceeded £200 million, or
- balance sheet exceeded £2 billion.

Tax Strategy to include a country-by-country report. However, to date, such regulations have not been enacted. A study undertaken by the Local Authority Pension Fund Forum in 2017 'Tax Strategy Reporting Among the FTSE 50 – Slow to emerge, poorly executed, but some examples of excellence'[228], analysed how the top 50 companies of the FTSE 100 responded to Schedule 19 of the Finance Act 2016, which requires the publication of an annual Tax Strategy. The companies were then ranked on a scale of zero to five, considering their basic legislative compliance, as well as on how they provide clarity on a number of best practice indicators in tax reporting, including their approach to (and use of) tax havens, the provision of public CBCR of economic activity (not required under Schedule 19 of the Finance Act 2016) and the degree to which the Tax Strategy covers global operations. Only four (8%) companies achieved the top score of five. The companies were Legal & General Group Plc, Prudential Plc, SSE Plc and Vodafone Group Plc, having published a Tax Strategy which not only applies to UK taxes (as required under the legislation) but also to tax affairs globally, and which did voluntary public country-by-country reporting in addition to making a confidential country-by-country report to HMRC, which is only shared with other relevant tax jurisdictions.

Further, the CBI (Confederation of British Industry) has developed a voluntary statement of tax principles to promote and affirm responsible business tax management. The tax principles are based on five key observations, one of which is that transparency and co-operation between HMRC and business contributes to greater compliance and a better functioning tax system. The tax principles include both tax planning principles and transparency and reporting principles. The latter includes that UK businesses should seek to increase public understanding in the tax system in order to build public trust in that system, and to that end, they should consider how best to explain more fully to the public their economic contribution and taxes paid in the UK, while also including an explanation of their policy for tax management, and the governance process which applies to tax decisions, together with some details of the amount and type of taxes paid.

Finally, the Fair Tax Mark is a voluntary certification scheme in the UK which seeks to encourage and recognise organisations that pay the right amount of corporation tax at the right time and in the right place. By certifying companies with the Fair Tax Mark, the scheme encourages businesses to pay their fair share, and provides the public with a way to know which companies they can trust. The Fair Tax Mark is awarded to companies which have passed the scheme's Fair Tax Assessment, which has been devised following input from tax experts, academics, accountants, businesses and campaigning organisations. UK registered companies which operate only in the UK and UK registered companies with multinational operations, can be accredited under the Fair Tax Mark. The criteria assessed consider a range of tax-related information in companies' accounts, including whether the company has a tax policy committing them to not abusing tax havens, or examining how much tax they have actually paid and what their explanation of it is. For multinational companies, the criteria also include public CBCR[229]. Over 60 companies nationwide have already been awarded the Fair Tax Mark[230].

Australia does not have any legislation with a similar scope and objective to Article 89 CRD, nor did the country legislate on a country-by-country basis on payments to governments in the extractives and logging industry. The only CBCR requirement in Australia is of a non-public nature and relates to the country's enactment of BEPS Action 13 in national legislation.

Further, the country has introduced two important mandatory and one voluntary initiative aimed at tax transparency – without requiring reporting on a country-by-country basis. The Basel III disclosure requirements have been implemented in the Australian Prudential Regulation Authority prudential standard 330. The standard requires locally incorporated Authorised Deposit-taking Institutions (ADIs or banks) and life, general

[228] https://fairtaxmark.net/wp-content/uploads/2017/10/Tax-Strategy-Reporting-among-FTSE-50-FINAL.pdf
[229] The criteria can be found at www.fairtaxmark.net/criteria.
[230] https://fairtaxmark.net/accredited-organisations/

and private health insurers to meet minimum requirements for the public disclosure of key information on, among other things, its capital, risk exposures, remuneration practices and, where applicable, its leverage ratios.

The Australian Tax Transparency Code is a regime through which medium businesses (turnover of between AUD 100 million and AUD 500 million) and large businesses (turnover of AUD 500 million or more) publicly disclose a range of matters about their tax affairs, in order to highlight those that are paying their fair share and to encourage all businesses not to engage in aggressive tax avoidance. The Tax Transparency Code is a voluntary regime and is not reflected in national legislation, but the Government expects all responsible large and medium businesses operating in Australia to adopt it. The exact extent of adherence to this Code is not known.

The **United States of America** does not have any legislation with a similar scope and objective to Article 89 CRD. An important public CBCR requirement can be found in Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Resource extraction issuers are required to file an annual report with the Securities and Exchange Commission (SEC) relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the US Federal Government for the purpose of the commercial development of oil, natural gas, or minerals. On 16 December 2020, the SEC issued a new regulation that revises and reinstitutes a previously-repealed SEC regulation to implement Section 1504 of the Dodd-Frank Act[231]. Extractives companies covered by the new rule will only have to report their aggregate payments at the national or subnational level, rather than the previous rule's requirement that payments be reported on a more detailed per-project basis. Also, the new rule raises the minimum payment reporting threshold from USD 100,000 under the old rule to USD 150,000. In addition, the rules specifically identify the types of payments that an issuer must disclose. A resource extraction issuer must disclose payments made for:

- Taxes levied on corporate profits, corporate income, and production, but not for taxes levied on consumption, such as value added taxes, personal income taxes, or sales taxes;
- Fees, including licence fees, rental fees, entry fees, and other considerations for licences or concessions;
- Bonuses, including signature, discovery, and production bonuses;
- Royalties, including unit-based, value-based, and profit-based royalties; and
- Dividends, including dividends paid in lieu of production entitlements or royalties, but not dividends paid to a government as a common or ordinary shareholder of the issuer, as long as the dividend is paid to the government under the same terms as other shareholders.

A further non-public CBCR requirement is laid down in Treasury Regulations §1.6038-4 (TD 9773), which implements BEPS Action 13 in national legislation. GRI 207, on the other hand, is dealt with on a voluntary basis, and sustainability reporting has been growing in general.

Finally, there have been a series of significant developments regarding CBCR recently in the United States[232]. Importantly, a bill on CBCR was introduced in the House of Representatives on 21 February 2020; the Disclosure of Tax Havens and Offshoring Act

[231] https://www.sec.gov/rules/final/2020/34-90679.pdf
[232] See https://www.3blmedia.com/News/Momentum-Gathering-Behind-Public-Country-Country-Tax-Reporting (accessed 1 March 2021).

would require publication of tax data by US companies, broken down by jurisdiction[233]. If passed, the act would amend the Securities Act of 1934 to require country-by-country reporting: certain issuers of securities would be required to annually disclose information related to the tax jurisdiction, income, and assets of their constituent entities on a country-by-country basis. In addition, in February 2021, the United Nations High-Level Panel on International Financial Accountability, Transparency and Integrity published its final report, with a key recommendation to address tax transparency by requiring that "*all private multinational entities publish accounting and financial information on a country-by-country basis*."[234]. This is mentioned here to indicate that the US is expected to take further actions in the future, however, the timeframe or promptness of those actions is uncertain at the time.

Conclusions

As could be expected, only the United Kingdom and Gibraltar have established a legislative regime similar to Article 89 CRD IV – in fact just literally transposing this CBCR requirement in their national legislation. Equally, the United Kingdom has transposed the EU legislation on payments to governments in the extractive and logging of primary forests industry. The United States of America introduced public CBCR requirements through Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, whereby resource extraction issuers are required to file an annual report with the SEC relating to any payment made by them, their subsidiaries or their controlled undertakings to a foreign government or the US Federal Government for the purpose of the commercial development of oil, natural gas, or minerals. Similar legislation could not be found in Australia.

With regard to non-public CBCR, the three non-EEA countries legislated the OECD BEPS Action 13 recommendations. None of these legislative measures seem to substantially deviate from BEPS Action 13.

Finally, the three non-EEA countries have introduced a number of voluntary and mandatory non-CBCR requirements aimed at tax transparency.

All in all, the results from this research in three non-EEA countries do not allow for any conclusions with regard to the efficiency or effectiveness of the EU framework.

6.4 Conclusions

The disclosure requirements laid down in Article 89(1) CRD IV sometimes (partially) overlap with CBCR requirements in other pieces of legislation, but, given the specific scope of application and key objective of CRD, there is no reason to conclude that Article 89 has lost its "raison d'être".

From a coherence point of view, it is highly recommended to bring the interpretation of the key indicators of Article 89 CRD IV in line with the guidelines and definitions given in other similar international CBCR requirements (notably GRI and BEPS Action 13), and at EU level through DAC4 and the proposed Chapter 10a of the Accounting Directive. After all, the reporting burden on those institutions that need or want to report on a

[233] Disclosure of Tax Havens and Offshoring Act: H. R. 5933, see https://www.congress.gov/bill/116th-congress/house-bill/5933/text (accessed 1 March 2021); see also https://www.congress.gov/bill/116th-congress/senate-bill/1609 (accessed 1 March 2021).

[234] UN (2021), Report of the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda, https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/603560520c476959ea33b17a_FACTI_Report_ExecSum.pdf (accessed 1 March 2021) [see page 6 of Executive Summary (quote): "*Recommendation 3B: Improve tax transparency by having all private multinational entities publish accounting and financial information on a country-by-country basis.*"]

country-by-country basis following various legal obligations or initiatives could be reduced if, for those items which have to be reported under both Article 89 and under the other similar CBCR requirement the requirements – and their interpretations – could be made equivalent. In addition, it seems appropriate to include in Article 89 CRD an exemption to prevent double reporting.

The majority of stakeholders interviewed were not able to identify similar existing disclosure requirements at the national and EU level, nor to point out any relevant synergies and/or gaps, leading to the conclusion that both internal and external coherence issues are not high on the agenda and/or (almost) non-existent. Additional attention has been given to segment reporting under IFRS 8, which might lead to additional reporting requirements for banks and investment firms albeit on similar indicators.

7 EU Level Harmonisation is desired for Cross-border Data

EU added value looks for changes which it can reasonably be argued are due to the EU intervention over and above what could reasonably have been expected from national actions by Member States[235]. As set forth in Toolbox #47, "[u]nder the principle of subsidiarity (Article 5 Treaty on European Union), and in areas of non-exclusive competence, the EU should only act when the objectives can be better achieved by Union action rather than action by the Member State".

A subsidiarity check has been carried out in the Impact Assessment related to the current Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches[236], and the insights gained there are perfectly applicable to the CBCR requirement investigated in this study. In particular:

> *"In an increasingly globally integrated economy, corporations have grown into entities that are freer from national contingencies and for which value chains are not necessarily regional matters. By contrast, tax policies and administration remain primarily a national responsibility. Due to the cross-border nature of many tax planning structures and transfer pricing arrangements, tax bases can be easily relocated by MNEs from one jurisdiction to another within or outside the Union. The international nature of tax planning suggests the need for multilateral and co-ordinated actions by countries hosting multinational firms. One of these actions, supported by the G20, consists of further transparency towards tax authorities.*
>
> *This global issue is also relevant within the Single Market. The EU Single Market has provided extensive opportunities for businesses to locate their activities according to their needs. This freedom may have, to an extent, given rise to mismatches that require counter-measures, one of which possibly consists of further corporate tax transparency. National provisions in this area cannot be fully effective, as Member States in isolation will be ill-equipped to address cross-border issues.*
>
> *EU action is therefore justified on the grounds of subsidiarity."*

Further, Joshi et al. found that "increased transparency from public CBCR can deter tax-motivated income shifting" although Article 89 CRD IV does not appear, at the bank level, "to materially influence the banks' overall tax avoidance"[237]. Also, Dutt et al. repeatedly investigated whether banks' CBCR might reveal profit shifting and might shed light on the tax avoidance behaviour of banks[238]. They concluded that "CBCRs uncover a large fraction of worldwide profits and real activities in terms of employees of EU bank groups, especially in tax havens". Given the need to create more transparency regarding internal transactions with related parties operating cross-borders (see: intervention logic) and the specific objective of Article 89 CRD IV to increase transparency regarding the activities of institutions, including profits made, taxes paid, and subsidies received,

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[235] European Commission, Chapter IV. Guidelines on evaluation (including fitness checks), page 63.

[236] Commission Staff Working Document. Impact Assessment assessing the potential for further transparency on income tax information. Accompanying the document Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches. SWD(2016)117 final, pages 17-18.

[237] Joshi, P., Outslay, E., Persson, A. (2020). Does Public Country-by-Country Reporting Deter Tax Avoidance and Income Shifting? Evidence from the European Banking Industry.

[238] See, e.g., Dutt, V.K., Nicolay, K., Vay, H., Voget, J. (2019). Can European banks' country-by-country reports reveal profit shifting? An analysis of the information content of EU banks' disclosures, ZEW Discussion Papers, No. 19-042, ZEW - Leibniz-Zentrum für Europäische Wirtschaftsforschung, Mannheim.

it can be concluded that Article 89(1) CRD IV has brought added value to uncovering tax avoidance measures by institutions and that it will continue to do so in the future.

Article 89(1) CRD IV additionally – and mainly – aimed to regain the trust of citizens in the financial sector (by increasing transparency regarding the activities of institutions). Both national and EU stakeholders clearly pointed out that national interventions, in the absence of any country-by-country reporting requirements under Article 89 CRD IV, would only to a limited extent be able to achieve increased citizen trust in the financial sector. Unification at EU level is seen as an indisputable advantage, while cross-border comparability will allow citizens and civil society to analyse and scrutinise the financial sector. The EBA added that national intervention could lead to destabilisation and a stigma could be created in countries with lower transparency.

It seems thus clear at both national and EU level that stakeholders agree on a low impact regarding potential national interventions in order to increase trust of citizens in the financial sector. Harmonisation at EU level is desired – especially in the case of cross-border data – and the EU could play a leadership role to ensure that such information is comparable. Furthermore, the global financial crisis (together with the COVID emergency) made citizens wary of partial, national interventions when it comes to cross-border issues.

8 Conclusions and policy remarks

This section draws the main conclusions from the analysis of the transposition and practical implementation, administrative costs, relevance, coherence and EU added value of the CBCR requirements under Article 89 CRD IV.

The country-by-country requirement was adopted as part of CRD IV in 2013 in order to regain the trust of EU citizens in the financial sector that was lost in the aftermath of the global financial crisis (2007-09) and Eurozone debt crisis (2010-12). As explained by the rapporteurs responsible for the negotiations on the file in the European Parliament at the time and who proposed the inclusion of CBCR during the trialogues, the intention was to enhance disclosure at country-level, and to boost the awareness of the activities of banks in offshore financial centres and tax havens among stakeholders.

The indicators were chosen to provide insights into fair corporate taxation and public support. Moreover, the rapporteurs envisaged that the CBCR requirement might later on be extended to other non-financial companies. The indicators should therefore be relevant to both financial and non-financial companies. This has resulted in some general CBCR requirements on the institutions and activities covered as well as indicators (name, activities, turnover, employees, profit before tax, tax on profit and subsidies) included in CRD. The CBCR requirements and indicators have not been further specified in the legislation and supervisory standards or guidelines. The only clarifications were provided by the EBA through Q&A responses, which are not legally binding.

The CBCR requirement under Article 89 CRD IV can be considered a standalone provision. It has minimal to no links to the other provisions within CRD IV. Logically there are no overlaps, contradictions or other inconsistencies in terms of the requirements with the rest of the requirements under CRD IV.

The CBCR indicators laid down in Article 89 CRD IV have been (almost) literally transposed in the national legislation of all Member States. Nevertheless, there are significant differences in the implementation in practice. Most of the indicators leave room for interpretation, especially as there are no standardised templates nor detailed definitions. The main methodological challenges identified are listed below:

- First, it is unclear which institutions are required to provide a country-by-country report. The institutions need to provide the country-by-country report at consolidated level, however within many institutions there are various consolidation levels, which could lead to double reporting. In practice, there are institutions that provide the country-by-country report for all entities within their group, while others only provide the report at group level. Moreover, most of the institutions active in a single country do not provide a country-by-country report.
- Second, CBCR information of most institutions is included in the notes or annexes of the annual financial statements, but there is a significant number of institutions that report the information separately. Moreover, quite a number of country-by-country reports include references to other parts in the annual report. The different locations make it more difficult to obtain the information.
- Third, a significant share of the banks are not reporting their branches in the country of operation. Indeed, banks conduct international activities through subsidiaries and branches. For most of the banks, branches are considered an integral part of the financial figures of the parent institutions. Nevertheless, as it concerns foreign activities, one would expect the activities of branches to be included under the country of operations rather than registration.
- Fourth, a minority of the banks with a country-by-country report are not disclosing the information for each country, but rather by sovereignty. This is particularly relevant as quite a number of offshore financial centres and tax havens are part of a sovereignty.
- Fifth, a significant share of the institutions are presenting part of the information for a group of countries.

- Sixth, in a significant share of the country-by-country reports there is some information missing, especially the information on the names and activities.
- Seventh, various definitions are used for a number of indicators, including activities, turnover (net versus gross revenues, continued versus all revenues, etc.), number of employees (average versus end of year), tax on profit and public subsidies.

Overall, this means that the currently disclosed country-by-country information is incomplete and difficult to compare.

The costs involved in the CBCR requirement seem insignificant. The indicated administrative costs range from zero to a few thousand euros per institution; for most of the institutions the costs are a few hundred euros. The main differences in costs are between non-reporters and reporters, smaller and larger institutions, institutions active in one or more countries, as well as inclusion in the annual report and separate reporting. Moreover, there is an important difference between the first and following years for credit institutions which started reporting after the introduction of the CBCR requirement under CRD IV.

The total administrative costs for the more than 4000 credit institutions in the EU subject to CRD IV are estimated at EUR 1.2 million on an ongoing basis per year. The large majority of these costs would also have been incurred in the absence of the CBCR requirement laid down in CRD due to business reporting, reporting to tax authorities (BEPS Action 13 / DAC4), etc. The incremental costs on an ongoing basis are EUR 0.5 million per year. Expressed in relative terms the operating costs are a fraction of a percent.

The administrative costs do not include the assurance costs, which are often not specified for CBCR and can be of a similar or even larger amount than the administrative costs.

As illustrated by the administrative costs figures, most institutions would, in the absence of the CBCR requirement, also conduct a large share of the activities necessary for preparing the country-by-country report. In fact, there are institutions which have fully integrated the CBCR requirement in their segment reporting as part of the financial statements. This is only possible for institutions where the operating segments are arranged along country borderlines. For other institutions following a geographical approach to the segment reporting, there is often some overlap between the segment reporting and CBCR. The institutions operating in more than one country and with turnover in excess of EUR 750 million are required to report more extensive information at country-level to the tax authorities. There are further institutions that voluntarily report most of the indicators as part of their non-financial reporting, or for managerial reporting purposes.

Equally, large institutions with total consolidated revenues in excess of EUR 750 million would disclose a country-by-country report under the politically agreed public CBCR directive, if an exemption to prevent double reporting had not been included.

The low quality of the information disclosed also complicates the assessment of the effectiveness of the current requirements in enhancing trust in the financial sector and in better adhering to tax rules. Trust in the financial sector has somewhat recovered in recent years after a steep drop in response to the financial and eurozone debt crisis. According to the various stakeholders interviewed (institutions preparing country-by-country reports, NGOs and supervisors), the enhanced transparency - in combination with the strengthening of the financial buffers, legislative and supervisory framework – contributed to the general increase in trust in the financial sector. The evidence on the reduction of corporate profit shifting of banks due to CBCR is not conclusive.

Overall, this means that measures to restore trust in the financial sector remain relevant. Similarly, transparency on taxation remains very relevant, as the issues concerning base erosion and profit shifting are still pertinent.

8.1 Recommendations

Based on the assessment, there is a need to refine the definitions, rather than adding new indicators to the existing CBCR.

Our recommendations relate to 1) the scope of those institutions for which CBCR is relevant, 2) the definition of establishment, 3) the definitions of the indicators, and 4) the enhancement of the accessibility.

The recommendations take account of the definitions used in the recently agreed legislation for a public CBCR for multinational enterprises (MNEs) (Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches) and in DAC4 (Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation), thereby addressing several challenges in the implementation of CBCR under Article 89 CRD IV.

Finally, the proposed recommendations are in line with the existing accounting practices and reduce the number of institutions subject to the requirement, which should limit the impact on the administrative costs. These are, after the potential implementation of the recommendations, expected to remain insignificant.

Considering the above, the following recommendations can be formulated:

First, apply the CBCR requirement only to institutions subject to CRD (including branches from third countries) active in multiple countries and to ultimate parent companies. The CBCR requirement currently applies to all institutions notwithstanding their ownership and international activities, whereas it is only relevant to capturing the ultimate parent of institutions active in two or more countries. This revision would ensure that the complete group is covered, that there is no double reporting, and that only institutions actually active in multiple countries need to report country-by-country information.

Second, apply the requirement to all establishments by Member State or tax jurisdiction when outside the EU. The establishment should cover both subsidiaries and branches, in the sense that their activities are attributed to the tax jurisdiction of activity. This should ensure that branches are recognised as part of the activities in the respective tax jurisdictions where they are active, and activities in offshore financial centres and tax havens are reported in the respective tax jurisdictions rather than along their sovereign.

Third, specify the indicators in CBCR in line with the accounting requirements. The indicators would have to be calculated for all activities including discontinued activities and it is recommended to revise the indicators as follows:

- “Turnover” should be revised to “net operating revenues” (net interest income, net commission and fee income, net investment income and other operating income) to avoid uncertainty about the meaning of turnover for credit institutions.
- “Number of employees on full-time equivalent (FTE) basis” can remain the same for comparability or changed to “number of employees” (headcount or FTE) to ensure consistency with the accounting requirements. This would ease the reconciliation with the total number of employees for the institutions in the notes of the financial statement and facilitates the calculation of the indicators.“Profit or loss before tax” should be revised to “profit or loss before income tax” to avoid

other taxes than corporate income taxes are being considered. This would allowto calculate the effective tax rates.

- “Tax on profit or loss” should consider two tax indicators “income tax accrued (current year)” and “income tax paid” to obtain a full understanding of the corporate income tax charged and paid, which facilitates the assessment of the effective tax rate.
- “Public subsidies received” should be defined to ensure that the subsidies include subsidies, grants and State aid.

Fourth, require that institutions include CBCR in the annual report rather than in a separate report as some institutions currently do, as well as publish the annual report on their corporate website. If available, the inclusion in a public central repository in a machine-readable format (where information can be compared across institutions and downloaded) is preferred in order to facilitate the analysis of the CBCR information. This could also be based on an interconnected system of national registers such as the Business Registers Interconnection System (BRIS).

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Annex I. Assessment Matrix

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
Current status of implementation				
What is the current status of implementation regarding the information requirements listed in points (a) to (f) of Article 89(1) CRD IV throughout the EU by Member States and individual institutions, and what are the main issues?	*For each disclosure requirement:* How does implementation in practice interact with Article 89(1) CRD IV? Are there differences in interpretation or is there confusion in implementation at EU and MS levels? How can they be avoided? Are there differences in interpretation or is there confusion in implementation with regard to the institutions' practices? How can they be avoided? Is the potential for synergy realised in practice? How do the identified shortcomings impact the adequacy of the information currently disclosed?	Extent to which implementation supports the objective of transparency through mandatory reporting Extent to which the terms used in Article 89(1) CRD IV are subject to different interpretations Existence of streamlining practices at EU and MS level with regard to the meaning of the terms used Existence of streamlining practices between different types of institutions Existence of streamlining practices with regard to the timing implications (accounting year and audit process) Existence of streamlining practices with regard to	Stated interpretation of the meaning of the terms used in Article 89(1) CRD IV, as set forth in EBA Q&A 2014_1043, EBA Q&A 2014_1249, EBA Q&A 2014_1248, etc Assessment of how disclosure requirements aim to contribute to the transparency objective Practical interaction between disclosure requirements # of MS where implementation guidelines are in place # and types of stakeholders expressing experience of synergy or inconsistency # of EBA Q&As Amount and severity of interpretational differences and confusion issues and impact	<u>Results of desk research</u>: - literature assessing the legal / policy instruments and concrete case studies - academia, reporting, position papers of NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 <u>Results of legal mapping</u>: - country transposition and implementation fiches - analysis of queries, case law with regards to interpretation of information requirements - expert judgement linking implementation experience to legislation and conclusions on the root causes of synergies and inconsistencies

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
		the basis for reporting Extent to which interpretational differences and confusion issues impact / impede the achievement of the legislation's objectives	on the adequacy of the information currently disclosed	Consultation activities including stakeholder opinion (interviews and survey questionnaires)
Effectiveness				
To what extent contributes Article 89(1) CRD IV to the effective regaining of trust in the financial sector?	To what extent are the information requirements in Article 89(1) CRD IV adequate to enhance the trust in the financial sector (trustworthiness, benevolence, integrity, expertise, shared values, effective communications)? Are there any other information requirements than required under Article 89(1) CRD IV adequate to enhance the trust in the financial sector (trustworthiness, benevolence, integrity, expertise, shared values, effective communications)? To what extent would the use of a standardised template contribute to more trust in the financial sector (trustworthiness, benevolence, integrity,	The degree of similarity and differences in the stakeholder views on the contribution to trust in the financial sector The estimated impact on trust based on quantitative assessment of the consequences of Article 89(1) of CRD IV Added value and feasibility of the proposed alternatives	#s and types of stakeholders expressing contribution of the legal requirements to the various components of trust in the financial sector (trustworthiness, benevolence, integrity, expertise, shared values, effective communications) Assessment of the motivation to change the information requirements Assessment of the availability of the alternative disclosure requirement Assessment of the potential costs involved in the change of the disclosure requirement	Results of desk research: - literature assessing the impact of requirement and concrete case studies - academia, reporting, position papers of NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 Consultation activities including stakeholder opinion (interviews and survey questionnaires)

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
	expertise, shared values, effective communications)?			
To what extent contributes Article 89(1) CRD IV to the increase in transparency about internal transactions with related international parties in the group?	Are there differences in the contribution to transparency among the different applications of the standards? What are the implementation challenges of the institutions in scope of Article 89 CRD experiencing? To what extent would the use of a standardised template contribute to more transparency? What are the implications of disclosing the information specified on a (consolidated) country-by-country basis rather than on a legal entity basis on the transparency? What is the impact of the main problems and difficulties related to the application of Article 89(1) at the level of the institution and the group on transparency?	The degree of similarity and differences in the stakeholder views on the contribution to transparency The estimated impact on transparency based on quantitative assessment of the consequences of Article 89(1) of CRD IV Added value and feasibility of the proposed alternatives	#s and types of stakeholders expressing contribution to transparency in the financial sector Assessment of the motivation to change the information requirements Assessment of the availability of the alternative disclosure requirement	Results of desk research: - literature assessing the impact of requirement and concrete case studies - academia, reporting, position papers of NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 Consultation activities including stakeholder opinion (interviews and survey questionnaires)

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
	Are there any other information requirements than required under Article 89(1) CRD IV adequate to enhance the transparency in the financial sector? To what extent would the use of a standardised template contribute to more transparency in the financial sector?			
Efficiency				
To what extent are the costs of Article 89(1) CRD IV justified, given the changes/effects it has achieved?	How does the implementation by institutions effect the cost of compliance? Are there any practices that lead to lower/higher costs for the implementation? To what extent would the use of a standardised template contribute to lower costs?	Level of the administrative costs involved with the compliance obligation Types of practices across different types of institutions Implications of a change in the reporting format to a standardised template	#s and types of institutions following a specific implementation approach Amount of administrative costs involved with different types of practices and types of institutions as well as standardised template Relative administrative costs (share of turnover, operating expenses, assets) with different types of practices and institutions as well as standardised template Assessment of the potential administrative costs (in abso-	Results of desk research: - literature assessing the impact of requirement and concrete case studies - academia, reporting, position papers of NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 Administrative cost assessment: Data analysis in combination with the information on the disclosure practices and

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
			lute and relative terms) involved in the change of the disclosure requirement to a standardised template	administrative costs obtained from the survey and interviews. Consultation activities including stakeholder opinion (interviews and survey questionnaires)
To what extent do the requirements covered in Article 89 CRD IV influence the costs?	To what extent does the cost to comply with the requirements in Article 89 CRD IV depend on the information criteria? To what extent are the timing implications of the requirements of Article 89 CRD IV, particularly with regard to the accounting year and the audit process of the institution concerned? To what extent does the group structure impact the administrative costs resulting from the country-by-country disclosure requirement? What are the implications of disclosing the information specified on a (consolidated) country-by-country basis rather than on a legal entity basis on the administrative	Level of the administrative costs involved with the compliance obligation Level of the administrative costs involved with the compliance obligation for different information obligations Level of the administrative costs involved with the compliance obligation for different types of institutions	Amount of administrative costs involved with different types of institutions and information obligations Relative administrative costs (share of turnover, operating expenses, assets) with different types of institutions and information obligations	Results of desk research: - literature assessing the impact of requirement and concrete case studies - academia, reporting, position papers of NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 Administrative cost assessment: Data analysis in combination with the information on the disclosure practices and administrative costs obtained from the survey and interviews.

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
	costs?			Consultation activities including stakeholder opinion (interviews and survey questionnaires
Relevance				
How well do the original objectives of the Article 89(1) CRD IV still correspond to the needs within the EU?	To what extent is it still necessary to enhance the trust in the financial sector? To what extent is it still necessary to promote transparency in the financial sector? Are there any EU policy motivations to require credit institutions to provide country-by-country reports?	The degree of similarity and differences in the stakeholder views on the objectives (trust and transparency) Relevance of the potential new objectives for the EU policies	#s and types of stakeholders expressing the relevance of trust in the financial sector #s and types of stakeholders expressing the relevance of transparency in the financial sector #s and types of stakeholders indicating a need to change the objectives Assessment of the relevance of the new objectives of the disclosure requirements	Results of desk research: - literature assessing the impact of requirement and concrete case studies - academia, reporting, position papers of NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 Consultation activities including stakeholder opinion (interviews and survey questionnaires
To what extent are the requirements in Article 89(1) CRD IV still relevant?	What is the meaning of adequacy in the context of country-by-country disclosures for institutions subject to CRD V?	The degree of similarity and differences in the stakeholder views on the requirements	#s and types of stakeholders expressing the relevance of each of the requirements	Results of desk research: - literature assessing the impact of requirement and concrete case studies

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
	Are there any other information items than specified under Article 89(1) CRD IV adequate to contribute to the current and potential additional objectives? What are the differences, if any, in the application of the requirements and their adequacy both between different types of institution (e.g. considering their size and organisational structure and the nature, scope and complexity of their activities)?	Relevance of the (potential new) requirements for meeting the objectives Comparability of the disclosed information	#s and types of stakeholders indicating a need to change the requirements Assessment of the relevance of potential new disclosure requirements	- academia, reporting, position papers of NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 Consultation activities including stakeholder opinion (interviews and survey questionnaires
Coherence				
To what extent is Article 89(1) CRD IV coherent with similar disclosure requirements at the national and EU level, both in the financial sector and in other business sectors?	What are similar existing disclosure requirements at the national and EU level pursuant to tax, accounting or other legislation or standards? What are similar existing disclosure requirements at the national and EU level in other business sectors? How are these similar disclosure requirements implemented in each Member State and in the non-EEA countries	The degree of similarity and interaction between identified disclosure requirements and Article 89(1) CRD IV – where does one go beyond the other etc. The existence of synergies and conflicts and their potential magnitude and impact on effectiveness, efficiency of Article 89(1) CRD IV (applicability, overlaps, inconsistencies, etc.)	# of relevant similar disclosure requirements in the financial sector # of relevant similar disclosure requirements in other business sectors Implementation practices # of stakeholders and expert responses expressing degrees of synergy, inconsistency, etc.	Results of desk research: - literature assessing the legal / policy instruments and concrete case studies - academia, reporting, NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
	included in the scope of the study? How do the objective, scope of application and provisions of the similar disclosure requirements compare with Article 89(1) CRD IV? Are these differences relevant? Are there synergies and/or conflicts (gaps, inconsistencies) between these similar disclosure requirements and Article 89(1) CRD IV?		Existence of specific examples to back up or illustrate the above factors Amount and severity of overlaps, inconsistencies and gaps identified and impact on the adequacy of the information currently disclosed	Council of 26 June 2013 Results of legal mapping: - country transposition and implementation fiches - expert judgement linking implementation experience to legislation and conclusions on the root causes of synergies and inconsistencies Consultation activities including stakeholder opinion (interviews and survey questionnaires)
To what extent is Article 89(1) CRD IV coherent with similar disclosure requirements at the international level, both in the financial sector and in other business sectors?	What are similar existing disclosure requirements at the international level pursuant to tax, accounting or other legislation or standards? What are similar existing disclosure requirements at the international level in other business sectors? How are these similar disclosure requirements implemented in each Member State and in the non-EEA countries included in the scope of the	The degree of similarity and interaction between identified disclosure requirements and Article 89(1) CRD IV – where does one go beyond the other etc. The existence of synergies and conflicts and their potential magnitude and impact on effectiveness, efficiency of Article 89(1) CRD IV (applicability, overlaps, inconsistencies, etc.)	# of relevant similar disclosure requirements in the financial sector # of relevant similar disclosure requirements in other business sectors Implementation practices # of stakeholders and expert responses expressing degrees of synergy, inconsistency, etc. Existence of specific examples	Results of desk research: - literature assessing the legal / policy instruments and concrete case studies - academia, reporting, NGOs, etc - Report from the Commission to the European Parliament and the Council - General assessment of economic consequences of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
	study? How do the objectives and provisions of the similar disclosure requirements compare with Article 89(1) CRD IV? Are there synergies and/or conflicts (gaps, inconsistencies) between these similar disclosure requirements and Article 89(1) CRD IV?		to back up or illustrate the above factors Amount and severity of overlaps, inconsistencies and gaps identified and impact on the adequacy of the information currently disclosed	Results of legal mapping: - country transposition and implementation fiches - expert judgement linking implementation experience to legislation and conclusions on the root causes of synergies and inconsistencies Consultation activities including stakeholder opinion (interviews and survey questionnaires)
EU added value				
What has been the added value of Article 89(1) CRD IV compared to what could be achieved at national and/or international level ?	What is the added value of Article 89(1) CRD IV compared to what could be achieved at national and/or international level ? What is the added value of each information requirement listed in points (a) to (f) of Article 89(1) CRD IV? Should any of these requirements be removed/modified/added to?	The benefits of Article 89(1) CRD IV as an EU legal instrument over and above national and international legislation or standards – both as a legal instrument itself and in the context of cross-border operations (e.g. coordination gains, legal certainty, transparency, synergies, raising citizen confidence, etc.) Existence of issues with a particular information requirement, based on pre-	#s and types of stakeholders confirming the benefits of harmonising disclosure requirements #s and types of stakeholders indicating existence and importance Article 89(1) CRD IV – both as a legal instrument itself and in the context of uniform legislation across the EU # of severe issues identified in the previous assessment questions	Synthesis of previous assessment question results and discussion / ranking of impacts and costs by project team Synthesis of stakeholder opinions

Assessment questions	Sub questions	Judgement criteria	Indicators/ descriptors	Data sources
		vious assessment questions Subsidiarity test	Existing need for (more) harmonisation to improve transparency and reduce disparities in implementation Criteria of the subsidiarity test	

Annex II. Scoping Interviews Guide

The following questionnaire has been used as a guidance during the scoping interviews.

Intervention logic

- What were the main needs, problems and drivers for the inclusion of Article 89 of the CRD IV?
- What were the objectives for the inclusion of Article 89 of the CRD IV?
- What was the expected impact of the inclusion of Article 89 of the CRD IV?
- Why were the six indicators chosen for inclusion in Article 89(1) of the CRD IV [(a) name, nature of activities and geographical location; b) turnover; c) number of employees in FTE; d) profit before tax; e) tax on profit or loss; and f) public subsidies received]?
- Were there other indicators considered for inclusion? If so, why?

Implementation (optional)

- *What were the main challenges for the implementation of the country-by-country reporting?*

Coherence

- Are there any similar requirements to the country-by-country reporting in Article 89(1) of the CRD IV at national, EU or international level? If so, what are the main similarities and differences (rationale, objectives, entities covered, territorial scope, etc.)? How relevant are the differences in the context of CRD IV?
- How is the information collected through other similar disclosure requirements used by public authorities, NGOs, etc?

Sources of information (optional)

- *Literature on the main features of the country-by-country reporting requirement covered by the study at national and international level?*
- *Literature on current impact of the country-by-country reporting requirements?*
- *Literature on the costs of the implementation of the country-by-country reporting requirements (e.g. man-days, assurance costs, capital expenses)?*
- *Literature on the implications of disclosing the information on a consolidated basis rather than on a legal entity basis.*

Stakeholders (optional)

- *Who are the key stakeholders involved in the preparation and use of the public country-by-country reporting?*
- *Suggestions for potential interviewees at national and EU level and contacts details for the surveys*

Annex III. Stakeholder Interviews Guide

Background

The European Commission (DG JUST) has appointed Milieu Consulting and the Centre for European Policy Studies (CEPS) to conduct a study on the adequacy of the information to be disclosed under Article 89 (1) of the Capital Requirements Directive IV (JUST/2019/MARK/FW/CIVI/0183).

The objective of the study is evaluate the adequacy of the **country-by-country public reporting obligation for banks and investment firms** introduced under points (a) to (f) of Article 89 (1) of the Capital Requirements Directive 2013/36/EU and of whether additional information could usefully be required under this Article. The study will contribute to the Commission's own assessment and report required under Article 89(6) of CRD IV.

Article 89 Country-by-country reporting

1. From 1 January 2015 Member States shall require each institution to disclose annually, specifying, by Member State and by third country in which it has an establishment, the following information on a consolidated basis for the financial year:

(a) name(s), nature of activities and geographical location;

(b) turnover;

(c) number of employees on a full time equivalent basis;

(d) profit or loss before tax;

(e) tax on profit or loss;

(f) public subsidies received.

[…]

4. The information referred to in paragraph 1 shall be audited in accordance with Directive 2006/43/EC and shall be published, where possible, as an annex to the annual financial statements or, where applicable, to the consolidated financial statements of the institution concerned.

[…]

6. By 1 January 2021, the Commission, after consulting EBA, EIOPA and ESMA, shall review whether the information referred to in points (a) to (f) of paragraph 1 is still adequate, while taking into account previous impact assessments, international agreements and legislative developments in the Union, and whether further relevant information requirements may be added to paragraph 1.

By 30 June 2021, the Commission shall, on the basis of the consultation with EBA, EIOPA and ESMA, report to the European Parliament and to the Council on the assessment referred to in this paragraph and, where appropriate, submit a legislative proposal to the European Parliament and to the Council.

Instructions

This interview aims to gather the views of selected stakeholders on the adequacy of country by country reporting by banks and investment firms. The information collected will feed the above-mentioned study. The interview is conducted by Milieu and CEPS on behalf of DG JUST of the European Commission.

If you wish to receive further information regarding this study, please feel free to contact the coordinator of the assessment:

- Willem Pieter de Groen
  Senior Research Fellow, CEPS
  Phone: +32 (0) 4 998 99 555
  Email: willem.pieter.degroen@ceps.eu

Thank you for your valuable input.

Personal data protection

Data and information provided during this interview will not be disclosed to any third party. Raw data and information may be shared with DG JUST of the European Commission. Results will be published so as not to be attributable to any specific respondent, unless otherwise agreed upon with the interviewee in written form.

Registration

REG.1 Name and surname of the interviewer:

____

REG.2 Date and place of the interview:

____

REG.3 Please indicate the name of the **organisation** you are part of:

____

REG 4 Please indicate the **Type of organisation**:

- Bank
- Investment firm
- Financial analyst
- Accountancy
- Legal advisers
- NGO
- Consumer representation
- Independent researcher
- Other (please specify): ________________________________

REG.5 Please indicate the **country or level (EU or international)** where the organisation operates:

____

REG.6 Please indicate your **name and surname** and position in your organisation:

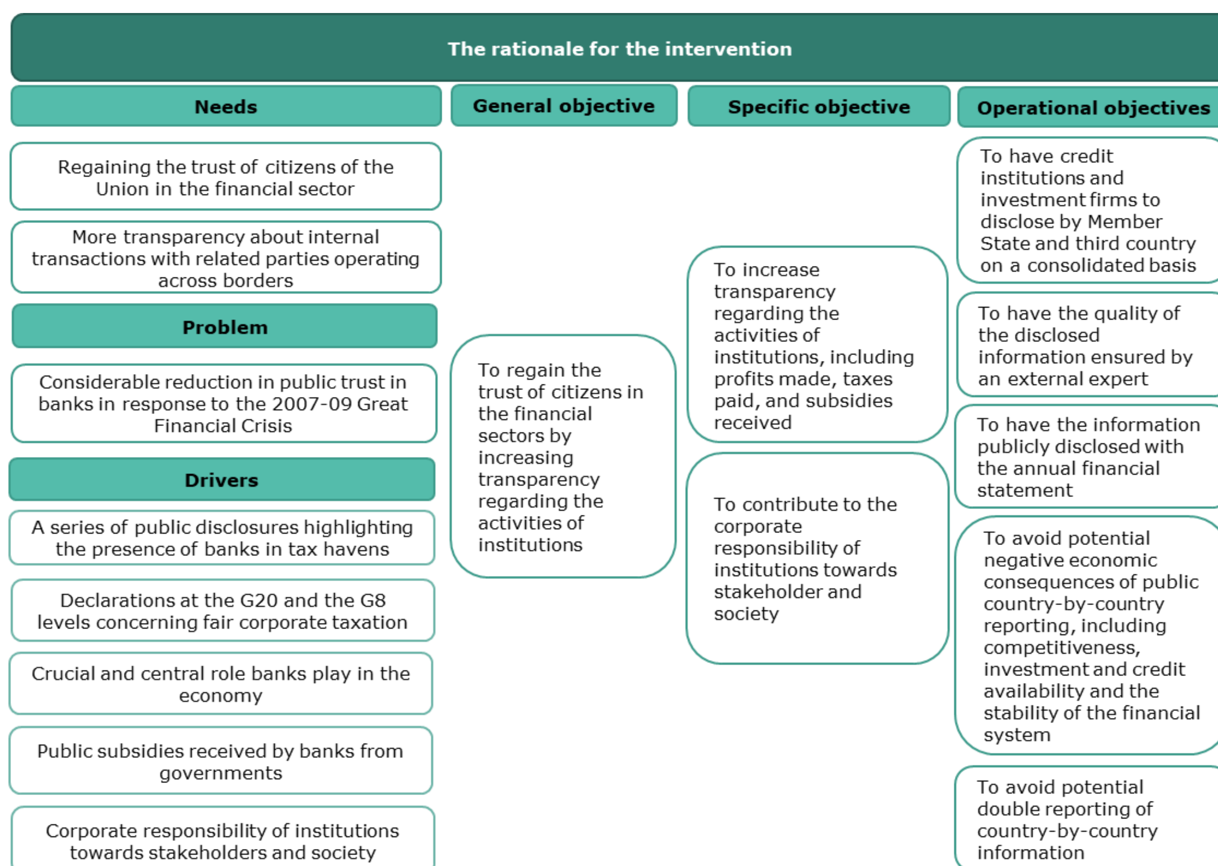
____

REG.7 Please indicate your **email address**:

____

PART I – RELEVANCE

Figure 32: Intervention logic



For the following questions, where requested, please provide your best estimate from 1 to 5 based on the following scale: (1) not at all; (2) to a limited extent; (3) to some extent; (4) to a high extent; or (5) to the fullest extent. Select DK/NO if you don't know or you have no opinion.

I.1 To what extent do you believe that by achieving the objectives presented in Figure 32, the country-by-country reporting requirements under Article 89 CRD IV can **address the needs** listed in the table below?

Need 1: Regaining the **trust** of citizens of the Union in the financial sector (trustworthiness, benevolence, integrity, expertise, shared values, effective communications)?	1	2	3	4	5	DK /NO
Need 2: **More transparency about internal transactions** with related parties[239] operating cross-border	1	2	3	4	5	DK /NO

Please elaborate on your answers: ______________________________

[239] An entity is related to the bank or investment firm if it is a subsidiary, associate, or joint venture of the bank or investment firm.

I.2 To what extent do you believe that by achieving the objectives presented in Figure 32, the country-by-country reporting requirements under Article 89 CRD IV can **address the problems** listed in the table below?

Problem 1: Considerable **reduction in public trust** in banks in response to the 2007-09 Great Financial Crisis	1	2	3	4	5	DK /NO

Please elaborate on your answers: ____

I.3 To what extent do you believe that the **needs** listed in the table below are **still experienced** by EU citizens?

Need 1: Regaining the **trust** of citizens of the Union in the financial sector (trustworthiness, benevolence, integrity, expertise, shared values, effective communications)?	1	2	3	4	5	DK /NO
Need 2: **More transparency about internal transactions** with related parties of multinational enterprise groups concerned operating cross-border	1	2	3	4	5	DK /NO

Please elaborate on your answers: ____

I.4 To what extent do you believe that the **problems** listed in the table below are **still experienced** by EU citizens?

Problem 1: Considerable **reduction in public trust** in banks in response to the 2007-09 Great Financial Crisis	1	2	3	4	5	DK /NO

Please elaborate on your answers: ____

I.5 Please indicate any **additional needs and problems related to country by country reporting of banks and investment firms** that are currently experienced in the EU / your Member State:

____

I.5.1 To what extent do you believe that by achieving the objectives presented in Figure 32 the country-by-country reporting requirements under Article 89 CRD IV can **address the additional needs and problems** you have identified?

- Not at all
- To a limited extent
- To some extent
- To a high extent
- To the fullest extent
- Do not know/No opinion

Please elaborate on your answer: ____

I.6 To what extent are the **information items adequate** in the context of country-by-country reporting for institutions subject to CRD IV?

Item 1: Name(s),	1	2	3	4	5	DK /NO
Item 2: Nature of activities						
Item 3: Geographical location						
Item 4: Turnover						
Item 5: Number of employees on a full time equivalent basis						
Item 6: Profit or loss before tax						
Item 7: Tax on profit or loss						
Item 8: Public subsidies received						

Please elaborate on your answers: ______________________________________

I.7 Are there any other information items than specified under Article 89(1) CRD IV adequate to **contribute to the current and potential additional objectives**?

____

PART II – IMPLEMENTATION

II.1 Are there any differences in interpretation or is there confusion in **implementation at EU and Member State levels**? If so, which?

____

II.2 Are there differences in interpretation or is there confusion in **implementation with regard to the institutions' practices**? How can they be avoided?

____

II.3 How do the identified shortcomings impact the **adequacy of the information currently disclosed**?

____

PART III – EFFECTIVENESS

III.1 To what extent have the country-by-country reporting requirements under Article 89 CRD IV under analysis contributed so far to **achieving the following objectives**?

General objective 1: To **regain the trust of citizens (trustworthiness, benevolence, integrity, expertise, shared values, effective communications)** in the financial sector	1	2	3	4	5	DK /NO

by increasing transparency regarding the activities of institutions						
Specific objective 1: To **increase transparency** regarding the activities of institutions, including profits made, taxes paid, and subsidies received	1	2	3	4	5	DK /NO
Specific objective 2: To **contribute to the corporate responsibility** of institutions towards stakeholder and society	1	2	3	4	5	DK/ NO

Please elaborate on your answer: ____

III.2 To what extent do you believe the country-by-country reporting requirements under Article 89 CRD IV have **achieved the following results**?

1. Credit institutions and investment firms disclose by Member State and third country on a consolidated basis	1	2	3	4	5	DK /NO
2. Quality of the disclosed information is ensured by an external expert	1	2	3	4	5	DK /NO
3. Information publicly disclosed with the annual financial statement	1	2	3	4	5	DK /NO
4. Avoid potential negative economic consequences of public country-by-country reporting, including competitiveness, investment and credit availability and the stability of the financial system	1	2	3	4	5	DK /NO
5. Avoid potential double reporting of country-by-country information	1	2	3	4	5	DK /NO

Please elaborate on your answer: ____

III.3 To what extent would the use of a **standardised template** contribute to achieve the following?

1. **More trust in the financial sector** (trustworthiness, benevolence, integrity, expertise, shared values, effective communications)	1	2	3	4	5	DK /NO
2. **Transparency**	1	2	3	4	5	DK /NO

Please elaborate on your answer: ____

III.4 Are there any other information requirements than required under Article 89(1) CRD IV adequate to enhance the trust in the financial sector?

____

III.5 Are there any other information requirements than required under Article 89(1) CRD IV adequate to enhance the transparency in the financial sector?

____

PART IV – COHERENCE

IV.1 To what extent do you believe that the country-by-country reporting requirements under Article 89 CRD IV are coherent with the other requirements under CRD IV?

- Not at all
- To a limited extent
- To some extent
- To a high extent
- To the fullest extent
- Do not know/No opinion

Please elaborate on your answer: ______________________________________

IV.2 What are similar existing disclosure and/or CBCR requirements at the **national and EU level pursuant to tax, accounting or other legislation or standards**?

____

IV.2.1 To what extent do you believe that the CBCR requirements are coherent with existing CBCR requirements at the **national and EU level pursuant to tax, accounting or other legislation or standards**?

- Not at all
- To a limited extent
- To some extent
- To a high extent
- To the fullest extent
- Do not know/No opinion

IV.2.2 If so, how do the **objectives and provisions of the similar CBCR** requirements compare with Article 89(1) CRD IV?

____

IV.2.3 If so, are there **synergies and/or conflicts (gaps, inconsistencies)** between these similar CBCR requirements and Article 89(1) CRD IV?

____

IV.2 What are similar existing CBCR and/or disclosure requirements at the **national and EU level in other business sectors**?

____

IV.2.1 To what extent do you believe that the disclosure and/or CBCR requirements are coherent with existing disclosure requirements at the **national and EU level in other business sectors**?

- Not at all
- To a limited extent
- To some extent

- To a high extent
- To the fullest extent
- Do not know/No opinion

IV.2.2 If so, how do the **objectives and provisions of the similar CBCR and/or disclosure** requirements compare with Article 89(1) CRD IV?

____

IV.2.3 If so, are there **synergies and/or conflicts (gaps, inconsistencies)** between these similar CBCR and/or disclosure requirements and Article 89(1) CRD IV?

____

PART V – EU ADDED VALUE

V.1 To what extent do you believe that **national interventions, in the absence of any country-by-country reporting requirements under Article 89 CRD IV**, would be able to achieve the **following results**?

1. **Increased trust of citizens in the financial sector**	1	2	3	4	5	DK /NO

Please elaborate on your answer: ___________________________________

V.1.1 Can you refer to any **examples** showing that the country-by-country reporting requirements under Article 89 CRD IV generate/do not generate better results than similar national initiatives (if any)?___________________________________

PART VI – OTHER

VI.1 Could you provide **sources** for data or other reports that are of relevance for this study?

____

VI.2 Is there anything you would like to **add to this interview**?

____

THANK YOU VERY MUCH FOR YOUR INPUTS!

Annex IV. Descriptive statistics for Administrative Costs and Incremental Costs

Table 8: Descriptive statistics of costs for all survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	22	3 385	964	0	19 917
Following years	22	2 333	859	0	19 720
Incremental costs (EUR)					
First year	22	1 863	221	0	13 942
Following years	22	1 298	221	0	13 804
Administrative costs as a share of turnover (%)					
First year	22	0.000138	0.000070	0.000000	0.000609
Following years	22	0.000099	0.000047	0.000000	0.000602
Incremental costs as a share of turnover (%)					
First year	22	0.000094	0.000015	0.000000	0.000548
Following years	22	0.000065	0.000009	0.000000	0.000421
Administrative costs as a share of operating costs (%)					
First year	22	0.000201	0.000116	0.000000	0.000845
Following years	22	0.000142	0.000072	0.000000	0.000754
Incremental costs as a share of operating costs (%)					
First year	22	0.00013	0.00002	0.00000	0.00076
Following years	22	0.00009	0.00001	0.00000	0.00053
Administrative costs as a share of assets (%)					
First year	22	0.000003	0.000002	0.000000	0.000015
Following years	22	0.000003	0.000001	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	22	0.000002	0.000000	0.000000	0.000011
Following years	22	0.000002	0.000000	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 9: Descriptive statistics of costs for all reporting survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	15	4 965	2 028	247	19 917
Following years	15	3 422	1 264	247	19 720
Incremental costs (EUR)					
First year	15	2 732	895	30	13 942
Following years	15	1 903	444	30	13 804
Administrative costs as a share of turnover (%)					
First year	15	0.000203	0.000123	0.000011	0.000609
Following years	15	0.000145	0.000107	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	15	0.000139	0.000023	0.000003	0.000548
Following years	15	0.000095	0.000018	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	15	0.000295	0.000186	0.000018	0.000845
Following years	15	0.000208	0.000144	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	15	0.00019	0.00005	0.00001	0.00076
Following years	15	0.00013	0.00004	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	15	0.000005	0.000004	0.000000	0.000015
Following years	15	0.000004	0.000003	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	15	0.000003	0.000001	0.000000	0.000011
Following years	15	0.000002	0.000001	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 10: Descriptive statistics of costs for survey respondents already reporting before CBCR

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	6	2 484	665	247	11 832
Following years	6	1 498	665	247	5 916
Incremental costs (EUR)					
First year	6	700	170	30	3 550
Following years	6	404	170	30	1 775
Administrative costs as a share of turnover (%)					
First year	6	0.000093	0.000070	0.000011	0.000265
Following years	6	0.000087	0.000053	0.000011	0.000265
Incremental costs as a share of turnover (%)					
First year	6	0.000047	0.000009	0.000003	0.000239
Following years	6	0.000046	0.000009	0.000003	0.000239
Administrative costs as a share of operating costs (%)					
First year	6	0.000135	0.000116	0.000018	0.000362
Following years	6	0.000125	0.000087	0.000018	0.000362
Incremental costs as a share of operating costs (%)					
First year	6	0.00007	0.00001	0.00001	0.00033
Following years	6	0.00006	0.00001	0.00001	0.00033
Administrative costs as a share of assets (%)					
First year	6	0.000003	0.000003	0.000000	0.000010
Following years	6	0.000003	0.000002	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	6	0.000002	0.000000	0.000000	0.000009
Following years	6	0.000002	0.000000	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 11: Descriptive statistics of costs for survey respondents reporting since introduction of CBCR

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	16	3 723	1 479	0	19 917
Following years	16	2 647	1 000	0	19 720
Incremental costs (EUR)					
First year	16	2 299	666	0	13 942
Following years	16	1 633	411	0	13 804
Administrative costs as a share of turnover (%)					
First year	16	0.000156	0.000072	0.000000	0.000609
Following years	16	0.000103	0.000040	0.000000	0.000602
Incremental costs as a share of turnover (%)					
First year	16	0.000112	0.000020	0.000000	0.000548
Following years	16	0.000072	0.000011	0.000000	0.000421
Administrative costs as a share of operating costs (%)					
First year	16	0.000226	0.000109	0.000000	0.000845
Following years	16	0.000148	0.000060	0.000000	0.000754
Incremental costs as a share of operating costs (%)					
First year	16	0.00015	0.00003	0.00000	0.00076
Following years	16	0.00010	0.00002	0.00000	0.00053
Administrative costs as a share of assets (%)					
First year	16	0.000003	0.000002	0.000000	0.000015
Following years	16	0.000002	0.000001	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	16	0.000002	0.000000	0.000000	0.000011
Following years	16	0.000002	0.000000	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 12: Descriptive statistics of costs for survey respondents already reporting before CBCR (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	6	2 484	665	247	11 832
Following years	6	1 498	665	247	5 916
Incremental costs (EUR)					
First year	6	700	170	30	3 550
Following years	6	404	170	30	1 775
Administrative costs as a share of turnover (%)					
First year	6	0.000093	0.000070	0.000011	0.000265
Following years	6	0.000087	0.000053	0.000011	0.000265
Incremental costs as a share of turnover (%)					
First year	6	0.000047	0.000009	0.000003	0.000239
Following years	6	0.000046	0.000009	0.000003	0.000239
Administrative costs as a share of operating costs (%)					
First year	6	0.000135	0.000116	0.000018	0.000362
Following years	6	0.000125	0.000087	0.000018	0.000362
Incremental costs as a share of operating costs (%)					
First year	6	0.00007	0.00001	0.00001	0.00033
Following years	6	0.00006	0.00001	0.00001	0.00033
Administrative costs as a share of assets (%)					
First year	6	0.000003	0.000003	0.000000	0.000010
Following years	6	0.000003	0.000002	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	6	0.000002	0.000000	0.000000	0.000009
Following years	6	0.000002	0.000000	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 13: Descriptive statistics of costs for survey respondents reporting since introduction of CBCR (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	9	6 619	4 056	1 479	19 917
Following years	9	4 705	1 479	986	19 720
Incremental costs (EUR)					
First year	9	4 086	1 517	444	13 942
Following years	9	2 903	887	379	13 804
Administrative costs as a share of turnover (%)					
First year	9	0.000276	0.000160	0.000066	0.000609
Following years	9	0.000184	0.000152	0.000019	0.000602
Incremental costs as a share of turnover (%)					
First year	9	0.000200	0.000136	0.000020	0.000548
Following years	9	0.000128	0.000096	0.000006	0.000421
Administrative costs as a share of operating costs (%)					
First year	9	0.000402	0.000286	0.000087	0.000845
Following years	9	0.000264	0.000190	0.000033	0.000754
Incremental costs as a share of operating costs (%)					
First year	9	0.00027	0.00017	0.00003	0.00076
Following years	9	0.00017	0.00017	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	9	0.000006	0.000004	0.000002	0.000015
Following years	9	0.000004	0.000003	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	9	0.000004	0.000003	0.000000	0.000011
Following years	9	0.000003	0.000002	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 14: Descriptive statistics of costs for survey respondents reporting at consolidated-level

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	14	5 234	2 493	247	19 917
Following years	14	3 581	1 372	247	19 720
Incremental costs (EUR)					
First year	14	2 918	1 113	30	13 942
Following years	14	2 031	566	30	13 804
Administrative costs as a share of turnover (%)					
First year	14	0.000212	0.000137	0.000011	0.000609
Following years	14	0.000150	0.000107	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	14	0.000148	0.000030	0.000003	0.000548
Following years	14	0.000101	0.000019	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	14	0.000308	0.000226	0.000018	0.000845
Following years	14	0.000215	0.000165	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	14	0.00020	0.00006	0.00001	0.00076
Following years	14	0.00014	0.00004	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	14	0.000005	0.000004	0.000000	0.000015
Following years	14	0.000004	0.000003	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	14	0.000003	0.000001	0.000000	0.000011
Following years	14	0.000002	0.000001	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 15: Descriptive statistics of costs for survey respondents not reporting

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	7	0	0	0	0
Following years	7	0	0	0	0
Incremental costs (EUR)					
First year	7	0	0	0	0
Following years	7	0	0	0	0
Administrative costs as a share of turnover (%)					
First year	7	0.000000	0.000000	0.000000	0.000000
Following years	7	0.000000	0.000000	0.000000	0.000000
Incremental costs as a share of turnover (%)					
First year	7	0.000000	0.000000	0.000000	0.000000
Following years	7	0.000000	0.000000	0.000000	0.000000
Administrative costs as a share of operating costs (%)					
First year	7	0.000000	0.000000	0.000000	0.000000
Following years	7	0.000000	0.000000	0.000000	0.000000
Incremental costs as a share of operating costs (%)					
First year	7	0.00000	0.00000	0.00000	0.00000
Following years	7	0.00000	0.00000	0.00000	0.00000
Administrative costs as a share of assets (%)					
First year	7	0.000000	0.000000	0.000000	0.000000
Following years	7	0.000000	0.000000	0.000000	0.000000
Incremental costs as a share of assets (%)					
First year	7	0.000000	0.000000	0.000000	0.000000
Following years	7	0.000000	0.000000	0.000000	0.000000

Source: Authors' elaboration (2021)

Table 16: Descriptive statistics of costs for survey respondents reporting in annual report

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	9	5 098	1 479	299	19 917
Following years	9	3 581	1 264	299	19 720
Incremental costs (EUR)					
First year	9	3 278	444	30	13 942
Following years	9	2 268	379	30	13 804
Administrative costs as a share of turnover (%)					
First year	9	0.000190	0.000077	0.000011	0.000609
Following years	9	0.000135	0.000066	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	9	0.000120	0.000020	0.000003	0.000548
Following years	9	0.000079	0.000011	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	9	0.000269	0.000132	0.000018	0.000845
Following years	9	0.000186	0.000117	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	9	0.00016	0.00003	0.00001	0.00076
Following years	9	0.00010	0.00001	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	9	0.000004	0.000004	0.000000	0.000015
Following years	9	0.000003	0.000002	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	9	0.000002	0.000001	0.000000	0.000011
Following years	9	0.000002	0.000000	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 17: Descriptive statistics of costs for survey respondents reporting in separate report

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	6	4 766	3 042	247	11 832
Following years	6	3 184	2 535	247	6 886
Incremental costs (EUR)					
First year	6	1 912	1 578	222	3 650
Following years	6	1 356	900	222	3 650
Administrative costs as a share of turnover (%)					
First year	6	0.000223	0.000182	0.000066	0.000491
Following years	6	0.000160	0.000154	0.000033	0.000265
Incremental costs as a share of turnover (%)					
First year	6	0.000167	0.000140	0.000020	0.000442
Following years	6	0.000120	0.000116	0.000010	0.000239
Administrative costs as a share of operating costs (%)					
First year	6	0.000334	0.000324	0.000116	0.000588
Following years	6	0.000242	0.000242	0.000058	0.000362
Incremental costs as a share of operating costs (%)					
First year	6	0.00023	0.00021	0.00003	0.00053
Following years	6	0.00016	0.00017	0.00002	0.00033
Administrative costs as a share of assets (%)					
First year	6	0.000006	0.000004	0.000001	0.000010
Following years	6	0.000004	0.000004	0.000001	0.000010
Incremental costs as a share of assets (%)					
First year	6	0.000004	0.000003	0.000000	0.000009
Following years	6	0.000003	0.000003	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 18: Descriptive statistics of costs for survey respondents active in one country

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	9	61	0	0	299
Following years	9	61	0	0	299
Incremental costs (EUR)					
First year	9	28	0	0	222
Following years	9	28	0	0	222
Administrative costs as a share of turnover (%)					
First year	9	0.000033	0.000000	0.000000	0.000265
Following years	9	0.000033	0.000000	0.000000	0.000265
Incremental costs as a share of turnover (%)					
First year	9	0.000027	0.000000	0.000000	0.000239
Following years	9	0.000027	0.000000	0.000000	0.000239
Administrative costs as a share of operating costs (%)					
First year	9	0.000046	0.000000	0.000000	0.000362
Following years	9	0.000046	0.000000	0.000000	0.000362
Incremental costs as a share of operating costs (%)					
First year	9	0.00004	0.00000	0.00000	0.00033
Following years	9	0.00004	0.00000	0.00000	0.00033
Administrative costs as a share of assets (%)					
First year	9	0.000001	0.000000	0.000000	0.000010
Following years	9	0.000001	0.000000	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	9	0.000001	0.000000	0.000000	0.000009
Following years	9	0.000001	0.000000	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 19: Descriptive statistics of costs for survey respondents active in two to five countries

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	5	2 400	2 028	1 479	4 056
Following years	5	1 803	1 479	986	4 056
Incremental costs (EUR)					
First year	5	1 628	1 331	444	3 650
Following years	5	1 268	887	444	3 650
Administrative costs as a share of turnover (%)					
First year	5	0.000198	0.000152	0.000066	0.000491
Following years	5	0.000126	0.000107	0.000061	0.000246
Incremental costs as a share of turnover (%)					
First year	5	0.000156	0.000136	0.000020	0.000442
Following years	5	0.000098	0.000096	0.000018	0.000221
Administrative costs as a share of operating costs (%)					
First year	5	0.000282	0.000266	0.000087	0.000588
Following years	5	0.000178	0.000186	0.000087	0.000294
Incremental costs as a share of operating costs (%)					
First year	5	0.00021	0.00017	0.00003	0.00053
Following years	5	0.00013	0.00017	0.00003	0.00026
Administrative costs as a share of assets (%)					
First year	5	0.000005	0.000004	0.000002	0.000010
Following years	5	0.000003	0.000002	0.000002	0.000005
Incremental costs as a share of assets (%)					
First year	5	0.000004	0.000003	0.000001	0.000009
Following years	5	0.000002	0.000002	0.000001	0.000005

Source: Authors' elaboration (2021)

Table 20: Descriptive statistics of costs for survey respondents active in more than five countries

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	8	7 742	7 004	598	19 917
Following years	8	5 222	3 362	598	19 720
Incremental costs (EUR)					
First year	8	4 073	1 206	60	13 942
Following years	8	2 745	534	60	13 804
Administrative costs as a share of turnover (%)					
First year	8	0.000219	0.000092	0.000011	0.000609
Following years	8	0.000156	0.000091	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	8	0.000132	0.000020	0.000003	0.000548
Following years	8	0.000087	0.000010	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	8	0.000325	0.000138	0.000018	0.000845
Following years	8	0.000228	0.000131	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	8	0.00018	0.00004	0.00001	0.00076
Following years	8	0.00012	0.00002	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	8	0.000005	0.000004	0.000000	0.000015
Following years	8	0.000004	0.000003	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	8	0.000002	0.000000	0.000000	0.000011
Following years	8	0.000002	0.000000	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 21: Descriptive statistics of costs for survey respondents active in third countries

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	9	7 308	5 056	732	19 917
Following years	9	4 849	1 479	732	19 720
Incremental costs (EUR)					
First year	9	3 861	1 331	120	13 942
Following years	9	2 581	689	120	13 804
Administrative costs as a share of turnover (%)					
First year	9	0.000215	0.000123	0.000011	0.000609
Following years	9	0.000145	0.000074	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	9	0.000136	0.000023	0.000003	0.000548
Following years	9	0.000089	0.000016	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	9	0.000334	0.000266	0.000018	0.000845
Following years	9	0.000222	0.000133	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	9	0.00020	0.00005	0.00001	0.00076
Following years	9	0.00012	0.00004	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	9	0.000004	0.000004	0.000000	0.000015
Following years	9	0.000003	0.000002	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	9	0.000003	0.000001	0.000000	0.000011
Following years	9	0.000002	0.000000	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 22: Descriptive statistics of costs for survey respondents not active in third countries

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	13	670	0	0	4 056
Following years	13	592	0	0	4 056
Incremental costs (EUR)					
First year	13	479	0	0	3 650
Following years	13	409	0	0	3 650
Administrative costs as a share of turnover (%)					
First year	13	0.000086	0.000000	0.000000	0.000491
Following years	13	0.000067	0.000000	0.000000	0.000265
Incremental costs as a share of turnover (%)					
First year	13	0.000065	0.000000	0.000000	0.000442
Following years	13	0.000048	0.000000	0.000000	0.000239
Administrative costs as a share of operating costs (%)					
First year	13	0.000109	0.000000	0.000000	0.000588
Following years	13	0.000086	0.000000	0.000000	0.000362
Incremental costs as a share of operating costs (%)					
First year	13	0.00008	0.00000	0.00000	0.00053
Following years	13	0.00006	0.00000	0.00000	0.00033
Administrative costs as a share of assets (%)					
First year	13	0.000002	0.000000	0.000000	0.000010
Following years	13	0.000002	0.000000	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	13	0.000002	0.000000	0.000000	0.000009
Following years	13	0.000001	0.000000	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 23: Descriptive statistics of costs for survey respondents active in third countries (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	9	7 308	5 056	732	19 917
Following years	9	4 849	1 479	732	19 720
Incremental costs (EUR)					
First year	9	3 861	1 331	120	13 942
Following years	9	2 581	689	120	13 804
Administrative costs as a share of turnover (%)					
First year	9	0.000215	0.000123	0.000011	0.000609
Following years	9	0.000145	0.000074	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	9	0.000136	0.000023	0.000003	0.000548
Following years	9	0.000089	0.000016	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	9	0.000334	0.000266	0.000018	0.000845
Following years	9	0.000222	0.000133	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	9	0.00020	0.00005	0.00001	0.00076
Following years	9	0.00012	0.00004	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	9	0.000004	0.000004	0.000000	0.000015
Following years	9	0.000003	0.000002	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	9	0.000003	0.000001	0.000000	0.000011
Following years	9	0.000002	0.000000	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 24: Descriptive statistics of costs for survey respondents not active in third countries (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	6	1 451	1 039	247	4 056
Following years	6	1 282	806	247	4 056
Incremental costs (EUR)					
First year	6	1 038	333	30	3 650
Following years	6	886	333	30	3 650
Administrative costs as a share of turnover (%)					
First year	6	0.000186	0.000129	0.000032	0.000491
Following years	6	0.000145	0.000129	0.000032	0.000265
Incremental costs as a share of turnover (%)					
First year	6	0.000142	0.000078	0.000003	0.000442
Following years	6	0.000105	0.000078	0.000003	0.000239
Administrative costs as a share of operating costs (%)					
First year	6	0.000236	0.000165	0.000052	0.000588
Following years	6	0.000187	0.000165	0.000052	0.000362
Incremental costs as a share of operating costs (%)					
First year	6	0.00018	0.00010	0.00001	0.00053
Following years	6	0.00013	0.00010	0.00001	0.00033
Administrative costs as a share of assets (%)					
First year	6	0.000005	0.000004	0.000000	0.000010
Following years	6	0.000004	0.000004	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	6	0.000004	0.000002	0.000000	0.000009
Following years	6	0.000003	0.000002	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 25: Descriptive statistics of costs for G-SIIs and other large institutions among the survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	5	8 044	8 952	732	13 650
Following years	5	4 052	5 460	732	6 886
Incremental costs (EUR)					
First year	5	3 693	1 517	220	12 285
Following years	5	1 595	689	220	4 914
Administrative costs as a share of turnover (%)					
First year	5	0.000193	0.000077	0.000011	0.000609
Following years	5	0.000093	0.000033	0.000011	0.000243
Incremental costs as a share of turnover (%)					
First year	5	0.000123	0.000020	0.000003	0.000548
Following years	5	0.000051	0.000010	0.000003	0.000219
Administrative costs as a share of operating costs (%)					
First year	5	0.000316	0.000132	0.000018	0.000845
Following years	5	0.000161	0.000058	0.000018	0.000360
Incremental costs as a share of operating costs (%)					
First year	5	0.00018	0.00004	0.00001	0.00076
Following years	5	0.00007	0.00002	0.00001	0.00030
Administrative costs as a share of assets (%)					
First year	5	0.000003	0.000002	0.000000	0.000007
Following years	5	0.000001	0.000001	0.000000	0.000003
Incremental costs as a share of assets (%)					
First year	5	0.000001	0.000000	0.000000	0.000006
Following years	5	0.000001	0.000000	0.000000	0.000002

Source: Authors' elaboration (2021)

Table 26: Descriptive statistics of costs for O-SIIs among survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	4	6 068	2 178	0	19 917
Following years	4	6 019	2 178	0	19 720
Incremental costs (EUR)					
First year	4	4 406	1 840	0	13 942
Following years	4	4 371	1 840	0	13 804
Administrative costs as a share of turnover (%)					
First year	4	0.000198	0.000092	0.000000	0.000608
Following years	4	0.000196	0.000092	0.000000	0.000602
Incremental costs as a share of turnover (%)					
First year	4	0.000141	0.000070	0.000000	0.000426
Following years	4	0.000140	0.000070	0.000000	0.000421
Administrative costs as a share of operating costs (%)					
First year	4	0.000250	0.000119	0.000000	0.000761
Following years	4	0.000248	0.000119	0.000000	0.000754
Incremental costs as a share of operating costs (%)					
First year	4	0.00018	0.00009	0.00000	0.00053
Following years	4	0.00018	0.00009	0.00000	0.00053
Administrative costs as a share of assets (%)					
First year	4	0.000005	0.000002	0.000000	0.000015
Following years	4	0.000005	0.000002	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	4	0.000004	0.000002	0.000000	0.000011
Following years	4	0.000004	0.000002	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 27: Descriptive statistics of costs for other banks among survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	13	768	247	0	2 958
Following years	13	538	247	0	1 479
Incremental costs (EUR)					
First year	13	376	60	0	1 825
Following years	13	238	60	0	913
Administrative costs as a share of turnover (%)					
First year	13	0.000099	0.000066	0.000000	0.000491
Following years	13	0.000071	0.000061	0.000000	0.000265
Incremental costs as a share of turnover (%)					
First year	13	0.000069	0.000007	0.000000	0.000442
Following years	13	0.000047	0.000007	0.000000	0.000239
Administrative costs as a share of operating costs (%)					
First year	13	0.000142	0.000087	0.000000	0.000588
Following years	13	0.000102	0.000087	0.000000	0.000362
Incremental costs as a share of operating costs (%)					
First year	13	0.00010	0.00001	0.00000	0.00053
Following years	13	0.00007	0.00001	0.00000	0.00033
Administrative costs as a share of assets (%)					
First year	13	0.000003	0.000002	0.000000	0.000010
Following years	13	0.000002	0.000002	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	13	0.000002	0.000000	0.000000	0.000009
Following years	13	0.000001	0.000000	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 28: Descriptive statistics of costs for G-SIIs and other large institutions among the survey respondents (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	5	8 044	8 952	732	13 650
Following years	5	4 052	5 460	732	6 886
Incremental costs (EUR)					
First year	5	3 693	1 517	220	12 285
Following years	5	1 595	689	220	4 914
Administrative costs as a share of turnover (%)					
First year	5	0.000193	0.000077	0.000011	0.000609
Following years	5	0.000093	0.000033	0.000011	0.000243
Incremental costs as a share of turnover (%)					
First year	5	0.000123	0.000020	0.000003	0.000548
Following years	5	0.000051	0.000010	0.000003	0.000219
Administrative costs as a share of operating costs (%)					
First year	5	0.000316	0.000132	0.000018	0.000845
Following years	5	0.000161	0.000058	0.000018	0.000360
Incremental costs as a share of operating costs (%)					
First year	5	0.00018	0.00004	0.00001	0.00076
Following years	5	0.00007	0.00002	0.00001	0.00030
Administrative costs as a share of assets (%)					
First year	5	0.000003	0.000002	0.000000	0.000007
Following years	5	0.000001	0.000001	0.000000	0.000003
Incremental costs as a share of assets (%)					
First year	5	0.000001	0.000000	0.000000	0.000006
Following years	5	0.000001	0.000000	0.000000	0.000002

Source: Authors' elaboration (2021)

Table 29: Descriptive statistics of costs for O-SIIs among survey respondents (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	3	8 091	4 056	299	19 917
Following years	3	8 025	4 056	299	19 720
Incremental costs (EUR)					
First year	3	5 874	3 650	30	13 942
Following years	3	5 828	3 650	30	13 804
Administrative costs as a share of turnover (%)					
First year	3	0.000264	0.000152	0.000032	0.000608
Following years	3	0.000262	0.000152	0.000032	0.000602
Incremental costs as a share of turnover (%)					
First year	3	0.000188	0.000136	0.000003	0.000426
Following years	3	0.000187	0.000136	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	3	0.000333	0.000186	0.000052	0.000761
Following years	3	0.000331	0.000186	0.000052	0.000754
Incremental costs as a share of operating costs (%)					
First year	3	0.00024	0.00017	0.00001	0.00053
Following years	3	0.00023	0.00017	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	3	0.000007	0.000004	0.000000	0.000015
Following years	3	0.000007	0.000004	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	3	0.000005	0.000004	0.000000	0.000011
Following years	3	0.000005	0.000004	0.000000	0.000010

Source: Authors' elaboration (2021)

Table 30: Descriptive statistics of costs for other banks among survey respondents (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	7	1 426	1 479	247	2 958
Following years	7	1 000	1 014	247	1 479
Incremental costs (EUR)					
First year	7	698	444	60	1 825
Following years	7	441	444	60	913
Administrative costs as a share of turnover (%)					
First year	7	0.000184	0.000123	0.000066	0.000491
Following years	7	0.000132	0.000107	0.000061	0.000265
Incremental costs as a share of turnover (%)					
First year	7	0.000128	0.000037	0.000007	0.000442
Following years	7	0.000087	0.000020	0.000007	0.000239
Administrative costs as a share of operating costs (%)					
First year	7	0.000264	0.000266	0.000087	0.000588
Following years	7	0.000190	0.000144	0.000087	0.000362
Incremental costs as a share of operating costs (%)					
First year	7	0.00018	0.00008	0.00001	0.00053
Following years	7	0.00012	0.00004	0.00001	0.00033
Administrative costs as a share of assets (%)					
First year	7	0.000005	0.000004	0.000002	0.000010
Following years	7	0.000004	0.000004	0.000002	0.000010
Incremental costs as a share of assets (%)					
First year	7	0.000003	0.000001	0.000000	0.000009
Following years	7	0.000003	0.000001	0.000000	0.000009

Source: Authors' elaboration (2021)

Table 31: Descriptive statistics of costs for listed survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	11	4 912	2 028	0	19 917
Following years	11	3 897	1 479	0	19 720
Incremental costs (EUR)					
First year	11	2 437	895	0	13 942
Following years	11	2 080	689	0	13 804
Administrative costs as a share of turnover (%)					
First year	11	0.000181	0.000123	0.000000	0.000608
Following years	11	0.000140	0.000107	0.000000	0.000602
Incremental costs as a share of turnover (%)					
First year	11	0.000114	0.000020	0.000000	0.000442
Following years	11	0.000087	0.000018	0.000000	0.000421
Administrative costs as a share of operating costs (%)					
First year	11	0.000265	0.000186	0.000000	0.000761
Following years	11	0.000202	0.000144	0.000000	0.000754
Incremental costs as a share of operating costs (%)					
First year	11	0.00015	0.00005	0.00000	0.00053
Following years	11	0.00012	0.00004	0.00000	0.00053
Administrative costs as a share of assets (%)					
First year	11	0.000004	0.000004	0.000000	0.000015
Following years	11	0.000003	0.000002	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	11	0.000003	0.000001	0.000000	0.000011
Following years	11	0.000002	0.000001	0.000000	0.000010

Note: Considers all those survey respondents with listed shares.

Source: Authors' elaboration (2021)

Table 32: Descriptive statistics of costs for non-listed survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	11	1 859	0	0	13 650
Following years	11	770	0	0	5 460
Incremental costs (EUR)					
First year	11	1 288	0	0	12 285
Following years	11	515	0	0	4 914
Administrative costs as a share of turnover (%)					
First year	11	0.000096	0.000000	0.000000	0.000609
Following years	11	0.000058	0.000000	0.000000	0.000265
Incremental costs as a share of turnover (%)					
First year	11	0.000075	0.000000	0.000000	0.000548
Following years	11	0.000043	0.000000	0.000000	0.000239
Administrative costs as a share of operating costs (%)					
First year	11	0.000137	0.000000	0.000000	0.000845
Following years	11	0.000082	0.000000	0.000000	0.000362
Incremental costs as a share of operating costs (%)					
First year	11	0.00010	0.00000	0.00000	0.00076
Following years	11	0.00006	0.00000	0.00000	0.00033
Administrative costs as a share of assets (%)					
First year	11	0.000002	0.000000	0.000000	0.000010
Following years	11	0.000002	0.000000	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	11	0.000001	0.000000	0.000000	0.000009
Following years	11	0.000001	0.000000	0.000000	0.000009

Note: Considers all those survey respondents without listed shares.

Source: Authors' elaboration (2021)

Table 33: Descriptive statistics of costs for listed survey respondents (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	10	5 403	2 493	598	19 917
Following years	10	4 287	1 479	598	19 720
Incremental costs (EUR)					
First year	10	2 680	1 113	60	13 942
Following years	10	2 288	788	60	13 804
Administrative costs as a share of turnover (%)					
First year	10	0.000199	0.000137	0.000011	0.000608
Following years	10	0.000154	0.000107	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	10	0.000126	0.000029	0.000003	0.000442
Following years	10	0.000095	0.000019	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	10	0.000292	0.000226	0.000018	0.000761
Following years	10	0.000222	0.000165	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	10	0.00017	0.00006	0.00001	0.00053
Following years	10	0.00013	0.00004	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	10	0.000005	0.000004	0.000000	0.000015
Following years	10	0.000004	0.000003	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	10	0.000003	0.000001	0.000000	0.000011
Following years	10	0.000002	0.000001	0.000000	0.000010

Note: Considers all those survey respondents with listed shares.

Source: Authors' elaboration (2021)

Table 34: Descriptive statistics of costs for non-listed survey respondents (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	5	4 090	1 196	247	13 650
Following years	5	1 693	1 196	247	5 460
Incremental costs (EUR)					
First year	5	2 835	222	30	12 285
Following years	5	1 133	222	30	4 914
Administrative costs as a share of turnover (%)					
First year	5	0.000211	0.000077	0.000032	0.000609
Following years	5	0.000127	0.000074	0.000019	0.000265
Incremental costs as a share of turnover (%)					
First year	5	0.000164	0.000023	0.000003	0.000548
Following years	5	0.000095	0.000007	0.000003	0.000239
Administrative costs as a share of operating costs (%)					
First year	5	0.000302	0.000132	0.000052	0.000845
Following years	5	0.000180	0.000117	0.000033	0.000362
Incremental costs as a share of operating costs (%)					
First year	5	0.00023	0.00004	0.00001	0.00076
Following years	5	0.00013	0.00001	0.00001	0.00033
Administrative costs as a share of assets (%)					
First year	5	0.000005	0.000004	0.000000	0.000010
Following years	5	0.000004	0.000003	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	5	0.000003	0.000001	0.000000	0.000009
Following years	5	0.000002	0.000000	0.000000	0.000009

Note: Considers all those survey respondents without listed shares.

Source: Authors' elaboration (2021)

Table 35: Descriptive statistics of costs for shareholder value banks among the survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	14	4 200	1 754	0	19 917
Following years	14	3 167	1 230	0	19 720
Incremental costs (EUR)					
First year	14	1 936	666	0	13 942
Following years	14	1 607	411	0	13 804
Administrative costs as a share of turnover (%)					
First year	14	0.000141	0.000075	0.000000	0.000608
Following years	14	0.000109	0.000064	0.000000	0.000602
Incremental costs as a share of turnover (%)					
First year	14	0.000082	0.000020	0.000000	0.000442
Following years	14	0.000062	0.000010	0.000000	0.000421
Administrative costs as a share of operating costs (%)					
First year	14	0.000206	0.000125	0.000000	0.000761
Following years	14	0.000156	0.000102	0.000000	0.000754
Incremental costs as a share of operating costs (%)					
First year	14	0.00011	0.00003	0.00000	0.00053
Following years	14	0.00008	0.00002	0.00000	0.00053
Administrative costs as a share of assets (%)					
First year	14	0.000004	0.000003	0.000000	0.000015
Following years	14	0.000003	0.000002	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	14	0.000002	0.000000	0.000000	0.000011
Following years	14	0.000002	0.000000	0.000000	0.000010

Note: Considers all those survey respondents with limited liability as legal form.

Source: Authors' elaboration (2021)

Table 36: Descriptive statistics of costs for stakeholder value banks among survey respondents

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	8	1 959	123	0	13 650
Following years	8	874	123	0	5 460
Incremental costs (EUR)					
First year	8	1 733	15	0	12 285
Following years	8	757	15	0	4 914
Administrative costs as a share of turnover (%)					
First year	8	0.000133	0.000016	0.000000	0.000609
Following years	8	0.000081	0.000016	0.000000	0.000265
Incremental costs as a share of turnover (%)					
First year	8	0.000117	0.000002	0.000000	0.000548
Following years	8	0.000070	0.000002	0.000000	0.000239
Administrative costs as a share of operating costs (%)					
First year	8	0.000193	0.000026	0.000000	0.000845
Following years	8	0.000118	0.000026	0.000000	0.000362
Incremental costs as a share of operating costs (%)					
First year	8	0.00017	0.00000	0.00000	0.00076
Following years	8	0.00010	0.00000	0.00000	0.00033
Administrative costs as a share of assets (%)					
First year	8	0.000003	0.000000	0.000000	0.000010
Following years	8	0.000002	0.000000	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	8	0.000002	0.000000	0.000000	0.000009
Following years	8	0.000002	0.000000	0.000000	0.000009

Note: Considers all the stakeholder value banks among the survey respondents, including cooperatives, savings banks and state-owned banks.

Source: Authors' elaboration (2021)

Table 37: Descriptive statistics of costs for shareholder value banks among the survey respondents (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	11	5 346	2 958	598	19 917
Following years	11	4 031	1 479	598	19 720
Incremental costs (EUR)					
First year	11	2 464	895	60	13 942
Following years	11	2 045	444	60	13 804
Administrative costs as a share of turnover (%)					
First year	11	0.000180	0.000107	0.000011	0.000608
Following years	11	0.000139	0.000074	0.000011	0.000602
Incremental costs as a share of turnover (%)					
First year	11	0.000104	0.000020	0.000003	0.000442
Following years	11	0.000079	0.000016	0.000003	0.000421
Administrative costs as a share of operating costs (%)					
First year	11	0.000262	0.000144	0.000018	0.000761
Following years	11	0.000198	0.000133	0.000018	0.000754
Incremental costs as a share of operating costs (%)					
First year	11	0.00014	0.00004	0.00001	0.00053
Following years	11	0.00010	0.00003	0.00001	0.00053
Administrative costs as a share of assets (%)					
First year	11	0.000005	0.000004	0.000000	0.000015
Following years	11	0.000004	0.000003	0.000000	0.000015
Incremental costs as a share of assets (%)					
First year	11	0.000002	0.000001	0.000000	0.000011
Following years	11	0.000002	0.000000	0.000000	0.000010

Note: Considers all those survey respondents with limited liability as legal form.

Source: Authors' elaboration (2021)

Table 38: Descriptive statistics of costs for stakeholder value banks among survey respondents (excl. non-reporters)

Variables	No. of obs	Average	Median	Min	Max
Administrative costs (EUR)					
First year	4	3 919	889	247	13 650
Following years	4	1 748	643	247	5 460
Incremental costs (EUR)					
First year	4	3 467	776	30	12 285
Following years	4	1 513	555	30	4 914
Administrative costs as a share of turnover (%)					
First year	4	0.000266	0.000213	0.000032	0.000609
Following years	4	0.000162	0.000175	0.000032	0.000265
Incremental costs as a share of turnover (%)					
First year	4	0.000233	0.000191	0.000003	0.000548
Following years	4	0.000139	0.000157	0.000003	0.000239
Administrative costs as a share of operating costs (%)					
First year	4	0.000386	0.000324	0.000052	0.000845
Following years	4	0.000236	0.000264	0.000052	0.000362
Incremental costs as a share of operating costs (%)					
First year	4	0.00034	0.00029	0.00001	0.00076
Following years	4	0.00020	0.00024	0.00001	0.00033
Administrative costs as a share of assets (%)					
First year	4	0.000005	0.000005	0.000000	0.000010
Following years	4	0.000004	0.000003	0.000000	0.000010
Incremental costs as a share of assets (%)					
First year	4	0.000005	0.000005	0.000000	0.000009
Following years	4	0.000003	0.000002	0.000000	0.000009

Note: Considers all the stakeholder value banks among the survey respondents, including cooperatives, savings banks and state-owned banks.

Source: Authors' elaboration (2021)

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