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EBA/GL/2014/03

Guidelines

on disclosure of encumbered and unencumbered assets

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1. Executive summary

Article 443 of Regulation (EU) 575/2013 (the Capital Requirements Regulation – CRR) mandates the EBA to develop guidelines on unencumbered assets taking into account the European Systemic Risk Board (ESRB) Recommendation ESRB/2012/2 of 20 December 2012 ⁽¹⁾ on the funding of credit institutions. Consequently, the EBA has drawn up the guidelines which, in addition to fulfilling the requirement of the CRR, will fulfil Recommendation D on market transparency on asset encumbrance in the ESRB Recommendations. The EBA is required to issue these guidelines by 30 June 2014.

The mandate in Article 443 of the CRR refers to unencumbered assets, whereas the ESRB Recommendation also refers to encumbered assets. The EBA has therefore drawn up these guidelines and the accompanying templates to cover both encumbered and unencumbered assets in line with the ESRB Recommendation and Article 16 of Regulation (EU) No 1093/2010 (the EBA Regulation). These guidelines are the first step in the disclosure framework of asset encumbrance; they will be reviewed after one year and will form the basis of the binding technical standards on more extensive disclosure that the EBA will develop by 2016.

The EBA has drawn up the guidelines to provide transparent and harmonised information on asset encumbrance across Member States and enable market participants to compare the institutions in a clear and consistent manner. These guidelines provide three disclosure templates and a box for narrative information to be filled in by the institutions about the importance of encumbrance in their funding model.

The EBA believes that disclosure by institutions about encumbrance is vitally important as it allows market participants to better understand and analyse the liquidity and solvency profiles of institutions. Specific modifications have been made to the draft guidelines to ensure that the level and evolution of assets encumbered to central banks and the amount of liquidity assistance given by central banks cannot be detected, as recommended by the ESRB.

These guidelines are intended to supplement existing relevant disclosure requirements in financial statements prepared in accordance with International Financial Reporting Standards (IFRS), in particular IFRS 7, on assets pledged as collateral for liabilities or contingent liabilities, transferred assets and collateral held. These guidelines will particularly add value to existing requirements by allowing for more comprehensive and more harmonised disclosures, in both presentation and content, and by specifically linking disclosures to the concept of encumbrance. The guidelines are to be implemented in the document in which the institutions insert disclosures required by Part Eight of the CRR.

⁽¹⁾ OJ C 119, 25.4.2013, p. 1.

The specifications of these guidelines are solely for the disclosure requirements in Part Eight of the CRR. The EBA has tried to ensure that there is consistency with other disclosure requirements on asset encumbrance; however, these guidelines complement rather than substitute other disclosure requirements, especially those stemming from the applicable accounting framework.

The guidelines are directed at institutions to which disclosure requirements in Part Eight of the CRR apply. They comprise the three templates, all of which are based on the reporting templates of asset encumbrance and take into account the concerns that transparency regarding assets encumbered to central banks and liquidity assistance given by central banks might have unwanted effects on financial stability. The following information will be required:

- the encumbered and unencumbered assets in carrying and fair value amounts by broad categories of asset type (Template A);
- collateral received by an institution, by broad categories of product type (Template B);
- carrying amount of encumbered assets/collateral received and associated liabilities (Template C);
- narrative information on the importance of asset encumbrance for an institution (Template D).

These templates are designed to show the amounts of encumbered and unencumbered assets of an institution. They differentiate assets that are used to support existing funding or collateral needs from those assets that are available for potential funding needs.

Therefore, templates should provide clear guidance on the information needed, which will be supplemented with narrative information on the importance of encumbrance in the funding model of the institution.

2. Background and rationale

Directive 2013/36/EU 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 (CRD IV) and Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR) transpose Basel III framework into EU law. The CRR introduces new supervisory reporting and disclosure requirements on asset encumbrance and mandates the EBA to adopt guidelines specifying the disclosure of unencumbered assets by 30 June 2014.

Prior to the publication of the CRR/CRD IV, the ESRB had published its Recommendation of 20 December 2012 on the funding of credit institutions (ESRB/2012/2). It recommends that the EBA and national supervisory authorities monitor the level, evolution and types of asset encumbrance, and that the EBA issue guidelines on harmonised templates and definitions and also on transparency requirements for credit institutions on asset encumbrance. This Recommendation is linked to Article 443 of the CRR that mandates the EBA to develop guidelines on disclosure of unencumbered assets, taking into account the ESRB Recommendation. The EBA has already drawn up regulatory technical standards on supervisory reporting, as required by Article 100 of the CRR, which will be implemented by competent authorities by 2015.

These disclosure guidelines include the set of principles and templates that enable the disclosure of information on encumbered and unencumbered assets by asset type, in line with the breakdown suggested by the ESRB and to comply with disclosure requirements laid down in Article 443 of the CRR.

The EBA has drawn up three templates which will provide information on assets and collateral that has been received, and as well as on liabilities associated with encumbered assets. In addition to these templates, institutions should also disclose narrative information on the importance of asset encumbrance in their business model.

The EBA drawn up its guidelines by considering:

- the existing disclosure requirements in Part Eight of the CRR;
- the existing disclosure requirements in IFRS 7 and IFRS 12 as well as in Council Directive 86/635;
- supervisory reporting requirements included in the EBA implementing technical standard EBA/ITS/2013/04;
- the work of the Enhanced Disclosure Task Force (EDTF) sponsored by the Financial Stability Board.

None of the existing disclosure requirements in the accounting and regulatory framework allows for the provision of a comprehensive picture of encumbered and unencumbered assets as defined in these guidelines. Asset encumbrance means pledging an asset or entering into any form of transaction to secure, collateralise or credit enhance any transaction from which it cannot be

freely withdrawn. Setting disclosure guidelines is, therefore, necessary to achieve comprehensive and harmonised disclosure across the EU.

These guidelines should impose a level playing field and avoid collective action problems, as they would apply to all EU institutions and would achieve a higher level of standardisation because the IFRS requirements, by their nature, do not prescribe disclosure format. The standardisation of a minimum amount of information, which can always be accompanied by additional explanations, is beneficial for comparability and for analysis by investors.

Current disclosure requirements and identified shortfalls

Part Eight of the CRR does not require disclosure of liquidity and funding (although some institutions voluntarily include some disclosure on this topic as part of their Pillar 3 report). The only disclosure requirements it contains are in Article 439, which are related to the policies for securing collateral and to the impact of a credit downgrade on the level of collateral to be posted by the institution.

IFRS 7, as adopted in the European Union in accordance with Regulation (EC) No 1606/2002 (IFRS), requires institutions to disclose the carrying amount of the financial assets that they have pledged as collateral for their liabilities or contingent liabilities (IFRS 7.14), and the carrying amount or, depending on the transaction considered, the fair value of transferred assets that have not been derecognised (which covers, for example, assets that have been posted as collateral or are otherwise involved in reverse repos, securitisation or the issuance of covered bonds operations, IFRS 7.42A–42H). IFRS 7 also requires the disclosure of the fair value of collateral held that the institution is permitted to sell or re-pledge in the absence of default by the borrower, and the amount that has been sold or re-pledged, as well as of qualitative information about the terms and conditions of collateral uses and pledges (IFRS 7.15). Lastly, IFRS requires the disclosure of the carrying amount of subsidiaries' assets, the use of which is restricted for settlement of the group's liabilities (for instance, cash that is not transferable between subsidiaries and parents), and the liabilities to which those restrictions apply (IFRS 12.13).

Council Directive 86/635 also requires the disclosure of the total assets pledged as security for each liabilities item and for each off-balance-sheet item (Article 40). It also requires the amounts of assets that are eligible for refinancing with the central bank(s) of the country or countries in which reporting institutions are based, and a breakdown of other transferable securities into asset classes (Article 4 and Articles 13 to 19).

Disclosure requirements under IFRS 7 and IFRS 12 are more comprehensive than the regulatory disclosure of asset encumbrance. Nevertheless, IFRS 7 refers to the notion of transferred assets and not to encumbered assets. Although the definition of transferred assets ⁽²⁾ and the required

⁽²⁾ Transferred assets, whether or not the transfer has resulted in their de-recognition from the balance-sheet of the transferor, are assets for which the contractual rights to receive cash-flows have been transferred, even if the assets

disclosure for non-derecognised transferred assets, coupled with those on collateral pledged to secure liabilities and on those of the hurdles to the use of assets of subsidiaries to settle the group's liabilities, cover some situations of asset encumbrance (reverse repos, securities lending, securitisation transactions, covered bonds, limited availability of assets yet on the consolidated balance sheet to cover funding needs of the group due to restrictions), they fail to provide a comprehensive view on the phenomenon of encumbrance. Similarly, disclosure requirements set by IFRS 12 address the limited availability of assets, but with a focus on inter-group transferability and considering the settlement of liabilities only, which does not cover all the cases of encumbrance as defined by the EBA. More importantly, the IFRS disclosure requirements are not specifically linked to the concept of encumbrance and, by their nature, do not prescribe disclosure format; this results in different practices among institutions.

Disclosure requirements in Council Directive 86/635 set out the amount of assets pledged, assets available to be pledged and a breakdown by asset type of those available to be pledged. However, they do not cover the whole spectrum of encumbrance. Although collateral disclosure requirements for assets available to be pledged are broad, they are limited to assets available for central bank refinancing and securities that are transferable.

Proposals to enhance disclosures regarding asset encumbrance have been made since the start of the financial crisis. The final report of the EDTF, under the aegis of the Financial Stability Board (FSB), calls for an enhancement of financial reporting in several areas, including asset encumbrance. The members of the EDTF were all drawn from private stakeholders and the report was fully endorsed by the FSB, although its recommendations are not mandatory. The EDTF recommends summarising encumbered assets ⁽³⁾ and unencumbered assets in a tabular format by balance-sheet category. This summary should include collateral that can be rehypothecated or otherwise redeployed. The EDTF also provides an example of tabular disclosures and recommends accompanying the quantitative disclosures with qualitative disclosures on the nature and characteristics of encumbered and unencumbered assets ⁽⁴⁾.

Despite these proposals for enhancement, disclosure analyses, including those by the European Securities and Markets Authority (ESMA) ⁽⁵⁾, have shown the continuing need for improvement of disclosures regarding asset encumbrance. The level of detail and granularity on assets pledged as

have not been derecognised, or assets the holder of which retains the contractual rights to the cash flows but has the contractual obligation to pay them to one or more recipients (IFRS 7.42A).

⁽³⁾ These are defined as assets pledged as collateral or that are restricted to be used for securing funding, for example, mortgage loans pledged in favour of covered bond holders, securitised assets and collateral for repos and securities financing transactions.

⁽⁴⁾ See Figure 5 in https://www.financialstabilityboard.org/publications/r_121029.pdf.

⁽⁵⁾ ESMA Comparability of IFRS Financial Statements of Financial Institutions in Europe, November 2013 http://www.esma.europa.eu/system/files/2013-1664_report_on_comparability_of_ifrs_financial_statements_of_financial_institutions_in_europe.pdf

collateral or transferred varies with regard to the breakdown by types of assets and information on the reasons for the pledge or transfer. Only a limited number of financial institutions provided comprehensive quantitative information related to encumbered or unencumbered assets, beyond the required disclosures on pledged and transferred assets, detailed by asset type. Moreover, disclosures on the transfer of assets are required to be included in a single note, but disclosures on pledged and otherwise encumbered assets are often provided in multiple places throughout the financial statements or the risk management report. Therefore, investors are generally not given an easily accessible and comprehensive view of the assets that could be freely used to meet future liquidity needs of the financial institutions.

The EBA's proposed guidelines for disclosures on asset encumbrance

Considering the background provided above and taking into account the importance of the provision of information surrounding asset encumbrance, the EBA has drawn up the guidelines in co-operation with ESMA to provide a comprehensive view on asset encumbrance and to harmonise the presentation of relevant disclosures by building on, and completing, the relevant IFRS existing requirements. Therefore, it was decided that an identical scope should be adopted in terms of transactions covered: to the extent that they meet the definitions in these guidelines, all transactions involving encumbrance of assets that have to be disclosed in accordance with IFRS 7 requirements on collateral and transferred assets, including operations with central banks, should also lead to disclosure in accordance with these guidelines. However, additional transactions to those for which information should be disclosed in IFRS may be covered by these guidelines if they meet the definition of encumbrance for which they provide.

Besides the IFRS requirements, the EBA chose to base the guidelines on the supervisory reporting on asset encumbrance, which is based on IFRS, to provide consistency in both the content and the presentation of disclosures, thanks to common definitions and formats.

The EBA has also looked at the EDTF proposal with great interest and in detail. It is an initiative stemming from the private sector with the objective of minimising the additional costs of implementation for institutions, as some of them have already moved towards implementing the EDTF recommendation, while providing information which is meaningful for the general public.

The table below compares the granularity of the disclosure of encumbered and unencumbered assets proposed by the EBA with the compliance criteria designed by the ESRB for its Recommendation D on bank funding, with the accounting requirements, and with Figure 5 in the EDTF report. Although they do not quite match, the categories proposed by the EBA are aligned with these other requirements and proposals to a great extent, and provide additional granularity compared with current requirements.

EDTF report	EBA Guidelines	ESRB Recommendation D
Other investment securities	Debt securities	Government, central bank and supranational debt instruments
	Equity instruments	Other financial assets
Loans	Other assets	
Other financial assets		
Cash and other liquid assets		Cash
Non-financial assets		Non-financial assets

Compared with the current requirements, the EBA Guidelines provide a single framework consistent with an EDTF recommendation. To provide users with information on longer-term structural levels of encumbrance, it is necessary to disclose median values.

Given the lack of a consistent and harmonised presentation of disclosures of asset encumbrance and the need for an enhanced disclosure in the short term, these guidelines are the first step in the disclosure of asset encumbrance. More extensive disclosure guidelines will follow after one year. The guidelines will be transformed into a binding technical standard that the EBA is required to deliver by 2016. Until then, the EBA believes that these guidelines will enable the market to obtain relevant and transparent information on encumbered and unencumbered assets that is clear and easy to compare, thereby enhancing the information available to investors. Nevertheless, given the sensitivity of this information and recognising the need for central banks to retain the ability to undertake covert liquidity support operations to ensure there is financial stability, the information should be disclosed based on median values rather than a 'point in time'.

Despite the shared features of the guidelines and the current IFRS disclosure requirements, especially in terms of transactions in scope, the guidelines are intended only for the purposes of the disclosure requirements in Part Eight of the CRR and their provisions should not be used as the basis for compliance with IFRS disclosure requirements. The guidelines apply on a different scope of consolidation from the IFRS requirements. For example, the focus of the guidelines is on gauging the resilience of banking activity in Europe within consolidated banking groups according to the regulatory scope as defined in the CRR, so the guidelines do not require disclosure of encumbrance arising from activities within insurance entities. Nonetheless, where insurance activities result in the encumbrance of assets held by an institution, all of these encumbering activities are required to be disclosed. Compliance with the guidelines does not waive the

requirement to comply with IFRS disclosure requirements (i.e. disclosures under Article 443 of the CRR are in addition to disclosures required by IFRS 7).

3. EBA Guidelines on disclosure of encumbered and unencumbered assets

Status of these guidelines

This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (the EBA Regulation). In accordance with Article 16(3) of the EBA Regulation, competent authorities and financial institutions must make every effort to comply with the guidelines.

Guidelines set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. The EBA therefore expects all competent authorities and financial institutions to whom they are addressed to comply with guidelines. Competent authorities to whom guidelines apply should comply by incorporating them into their supervisory practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

Pursuant to Article 16(3) of the EBA Regulation, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 27.08.2014. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form provided in Section 5 to compliance@eba.europa.eu with the reference 'EBA/GL/2014/03. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities.

Notifications will be published on the EBA website, in line with Article 16(3).

Title I – Scope of application and general principles

1. In accordance with Article 443 of Regulation (EU) No 575/2013 (CRR) ⁽⁶⁾, these guidelines specify the disclosure of unencumbered assets, and additionally specify the disclosure of encumbered assets, taking into account Recommendation ESRB/2012/2 of the European Systemic Risk Board of 20 December 2012 on funding credit institutions ⁽⁷⁾, in particular Recommendation D on market transparency on asset encumbrance.
2. These guidelines specify the disclosure requirements in accordance with Part Eight of the CRR and should not be used as a basis to comply with other disclosure requirements.
3. These guidelines are addressed to competent authorities and to institutions, as defined in Article 4(1)(3) of the CRR, that have to comply with the disclosure requirements set out in Part Eight of the same Regulation.
4. For purposes of application of these guidelines on a consolidated basis, consolidation applying in Title II, Chapter 2 of the CRR should be used. For the avoidance of doubt, insurance subsidiaries are excluded from the scope of this consolidation.
5. For the purposes of these guidelines, an asset should be treated as encumbered if it has been pledged or if it is subject to any form of arrangement to secure, collateralise or credit-enhance any on-balance-sheet or off-balance-sheet transaction from which it cannot be freely withdrawn (for instance, to be pledged for funding purposes). Assets pledged that are subject to any restrictions in withdrawal, such as assets that require prior approval before withdrawal or replacement by other assets, should be considered encumbered. The following types of contracts should be considered encumbered:
 - a. secured financing transactions, including repurchase contracts and agreements, securities lending and other forms of secured lending;
 - b. collateral agreements, for instance, collateral placed for the market value of derivatives transactions;
 - c. financial guarantees that are collateralised;
 - d. collateral placed in clearing systems, with central counterparties (CCPs) and with other infrastructure institutions as a condition for access to service; this includes default funds and initial margins;
 - e. central bank facilities; pre-positioned assets should be considered unencumbered only if the central bank allows withdrawal of assets placed without prior approval;
 - f. underlying assets from securitisation structures, where the financial assets have not been derecognised from the institution's financial assets; assets that are underlying fully

⁽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.

⁽⁷⁾ OJ, C 119, 25.4.2013, p. 1.

- retained securities do not count as encumbered, unless these securities are pledged or collateralised in any way to secure a transaction;
- g. assets in cover pools used for covered bond issuance; assets that are underlying covered bonds count as encumbered, except in certain situations where the institution holds the corresponding covered bonds as referred to in Article 33 of the CRR.
6. Assets placed at facilities that are not used and can be freely withdrawn should not be considered encumbered.
 7. Institutions should capture encumbrance arising from all transactions including all operations with central banks.
 8. The harmonised disclosure templates, as specified in the annex to these guidelines, should enable market participants to compare institutions in a clear and consistent manner across Member States.

Title II - Requirements for disclosure

1. Institutions should disclose information on encumbered and unencumbered assets by products on a consolidated basis in accordance with the format specified in the annex to these guidelines and taking into account the instructions specified in Annex XVII of the Commission Implementing Regulation (EU) No xxx/xxx⁽⁸⁾ [TS IN EBA/2013/ITS/02]. As regards the frequency of disclosure, institutions should comply with Article 433 of the CRR and disclose such information at least on an annual basis.
2. Institutions should disclose the amount of encumbered and unencumbered assets under the applicable accounting framework by asset type in accordance with Template A of the annex to these guidelines. Encumbered assets in Template A are on-balance-sheet assets that have been either pledged or transferred without derecognition or are otherwise encumbered, and collateral received that meet the conditions for recognition on the balance sheet of the transferee in accordance with the applicable accounting framework.
3. Institutions should disclose information on collateral received by asset type in accordance with Template B of the annex to these guidelines. Encumbered and unencumbered collateral in Template B is collateral received that does not meet the conditions to be recognised on the balance-sheet of the transferee in accordance with the applicable accounting framework. It is therefore collateral received that is kept off the balance sheet. Collateral received that is recognised on the balance sheet shall be disclosed in Template A.

⁽⁸⁾ OJ L [...], [xx.xx.XXXX, p...].

4. Where central banks undertake liquidity assistance in the form of collateral swap transactions, a competent authority may, in line with Recommendation ESRB/2012/2 of the ESRB, decide that institutions should not disclose Template B where it deems that the disclosure in that format would allow, now or in the future, for the detection of liquidity assistance provided by central banks via collateral swaps. The waiver by a competent authority should be based on thresholds and objective criteria that are publicly disclosed.
5. The liabilities associated with encumbered assets and collateral received should be disclosed in accordance with Template C of the annex to these guidelines. Liabilities without any associated funding, such as derivatives, should be included.
6. Information should be disclosed in the same currency and units as the other disclosure requirements provided for in Part Eight of the CRR. If the disclosure of asset encumbrance is provided in the notes to the financial statements or included in the same document as the financial statements, the currency and units should be the same of the financial statements of the institutions. Institutions may provide additional disclosures using different currencies than the currency used for disclosures in Part Eight of the CRR when relevant.
7. Institutions should disclose information based on median values of at least quarterly data on a rolling basis over the previous twelve months. For the disclosure of the first reporting period, institutions may, subject to the approval of the competent authority, instead choose to use data as of 31 December 2014; however, they should then include the type of time reference in their narrative information.
8. Institutions should disclose narrative information relating to the impact of their business model on their level of encumbrance and the importance of encumbrance in their funding model in Template D of the annex to these guidelines. The information should include at least the following aspects:
 - a. main sources and types of encumbrance, detailing, if applicable, encumbrance due to significant activities with derivatives, securities lending, repos, covered bonds issuance and securitisation;
 - b. evolution of encumbrance over time and in particular after the last disclosure period;
 - c. structure of encumbrance between entities within a group;
 - d. information on over-collateralisation;
 - e. general description of terms and conditions of the collateralisation agreements entered into for securing liabilities;
 - f. general description of the proportion of items included in column 060 'Carrying amount of unencumbered assets' in row 120 'other assets' in Template A of the annex to these guidelines that the institution would not deem available for encumbrance in the normal course of its business (e.g. intangible assets, including goodwill, deferred tax assets, property, plant and other fixed assets, derivative assets, reverse repo and stock borrowing receivables);

- g. other information that the institution considers relevant for the assessment of its asset encumbrance.
- 9. Institutions should not include statements relating to the utilisation, or absence thereof, of liquidity assistance from central banks in their narrative information in Template D.
- 10. Institutions should provide disclosure information in a single location as specified in Article 434 of the CRR. To the extent possible, disclosure should be included in the same document as other disclosures required by Part Eight of the CRR. Where relevant, appropriate cross-references from this document to the location of disclosures in accordance with these guidelines should be provided, pursuant to Article 434 of the CRR.
- 11. In accordance with Article 433 of the CRR, annual disclosure specified in these guidelines should be published in conjunction with the date of publication of the financial statements. This annual disclosure should be published no later than six months after the reference date of the financial statements.

Title III- Final provisions and implementation

National competent authorities should implement these guidelines by incorporating them in their supervisory procedures within six months after publication of the final guidelines. Thereafter, national competent authorities should ensure that institutions comply with them effectively.

Annex 1 (*templates*)

4. Accompanying documents

4.1 Cost-benefit analysis/Impact assessment

Introduction

1. Article 16(2) of the EBA Regulation provides that when any guidelines are drawn up by the EBA, they shall be accompanied by an analysis of 'the potential related costs and benefits'. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.
2. The disclosure methodology proposed in these draft guidelines is to fulfil the requirements under Article 443 of the CRR.

Scope and nature of the problem

Issues identified by the Commission and the ESRB regarding transparency requirements on asset encumbrance

3. The mandate for the EBA to draft guidelines on disclosure requirements covering asset encumbrance is an outcome of the negotiations between the European Commission, the European Council and the European Parliament. Therefore, no specific reference is made to the concept of asset encumbrance in the impact assessment document accompanying the July 2011 proposal of the CRD IV/CRR, or to any of the elements justifying regulatory intervention.
4. In February 2013, the ESRB published a report on bank funding that, among other topics, gathers evidence on the materiality of asset encumbrance in Europe and describes some of the associated risks. The report backs a series of ESRB recommendations on the subject of bank funding: Recommendation D ('Market transparency on asset encumbrance'), in particular, recommends that the EBA develop guidelines on transparency requirements for credit institutions on asset encumbrance. The ESRB explicitly asks that, in accordance with these guidelines, institutions should:
 - ▶ disclose information on the level and evolution of encumbered and unencumbered assets;
 - ▶ disclose this information half-yearly and supplement it with a breakdown by asset quality if this is deemed useful by the EBA after one year's experience;
 - ▶ provide users with a narrative, when necessary, giving information that may be useful for understanding the importance of encumbrance in the institution's funding model.

5. Current disclosure requirements on asset encumbrance in the accounting and regulatory frameworks are not comprehensive, especially regarding unencumbered assets available for encumbrance, common definitions and common presentation. This variety in granularity and presentation of disclosures has resulted in difficulties for users in assessing and comparing the level of asset encumbrance in EU institutions.

Objectives of the guidelines

6. The guidelines specify the format of the templates that credit institutions should use and which information they should report. The requirements proposed in these guidelines aim to achieve the following:
 - (1) to provide a disclosure framework and applicable definitions that are as uniform as possible, in order to allow meaningful and clear comparisons between institutions;
 - (2) to provide sufficient granularity in reporting so that users of the information have enough elements to assess the levels of encumbrance of the assets held by the institutions.

Technical options considered

7. The EBA has reviewed the existing disclosure requirements in the CRR and in the accounting frameworks (IFRS 7 and Council Directive 86/635). It also considered recommendations issued by the EDTF in its October 2012 report. This was to ensure there was consistency between the guidelines and the disclosure requirements, and therefore ease their implementation by institutions.
8. In addition, the reporting templates and requirements proposed in these guidelines follow the recommendations of the ESRB and have been adapted from the asset encumbrance reporting templates proposed by the EBA ⁽⁹⁾, with a view to achieving an adequate level of harmonisation in content and presentation of disclosures. For this reason, very few technical options were available for discussion for these guidelines.
9. The disclosure templates drawn up by the EBA have been adapted to fit the requirements of the ESRB as follows:
 - ▶ **Assets of the reporting institution** – this template shows the split between encumbered and unencumbered assets by type of assets.
 - ▶ **Collateral received** – this template covers collateral received and own securities issued by an institution and is also split between encumbered and unencumbered assets.
 - ▶ **Associated liabilities** – this template covers the amount of selected financial liabilities.

⁽⁹⁾ EUROPEAN BANKING AUTHORITY, [DRAFT TS IN EBA/2013/ITS/02 ON SUPERVISORY REPORTING \(ASSET ENCUMBRANCE\)](#), MARCH 2013.

Benefits

10. The templates provided in the annex to these guidelines will provide investors and market analysts with a richer set of information regarding the levels of encumbrance and non-encumbrance of the assets held by an institution. This additional information should enable them to make better judgements regarding the funding practices of a particular institution and to compare them more easily with its peers, thereby increasing market discipline.
11. These guidelines are the first step of the disclosure framework, which will also educate investors to help them make more informed decisions.

Costs

12. The main costs for institutions will be related to setting up processes to produce the required disclosure templates. The costs will be driven by the complexity of the balance sheet of the institutions. However, because all of the information needed for the disclosure should have already been produced to fill the regulatory reporting templates on asset encumbrance, the EBA expects the direct compliance costs to be minimal.
13. However, a mandatory disclosure regime may increase pro-cyclicality, because information about increased asset encumbrance tends to raise the demand for collateral with a tight supply of high-quality collateral, at a time when banks need stable funding sources to maintain their lending to the economy. In order to alleviate this risk, these guidelines provide that the information should be disclosed based on the median value of the quarterly data of the reporting year rather than a 'point in time'. Nevertheless, central banks must retain the ability to undertake covert non-conventional liquidity support operations; the covert nature of these operations is critical to financial stability.

4.2 Views of the Banking Stakeholder Group (BSG)

The BSG welcomes the draft Guidelines and strongly supports all measures designed to enhance transparency and comparability regarding banks' balance sheet positions and especially regarding their liquidity, funding and solvency positions. The use of standardised templates that are based on the reporting templates makes it possible to compare institutions and minimises the costs of compliance.

The BSG considers Template A – Assets as the most important template and suggests a different breakdown by category: covered bonds, CCP margins, state guarantees, repo financing, Self-liquidating revolving liabilities, etc. The debt-equities distinction is not particularly informative and the 'Other assets' category is too generic and should be replaced by the ESRB distinction (cash, financial assets, hard assets). On the other hand, information in Template B – collateral received is less relevant and should be simply divided between secured and unsecured lending; breakdown by collateral type is less essential. Template C – sources of encumbrance is important. This should be disclosed and it should be mandatory to add details.

Levels of granularity should vary according to the systematic importance of institution; SMEs should not be required to provide more granular information than proposed in the consultation paper. The BSG also suggests a threshold for SMEs below which the information is considered non-material and disclosure should not be mandatory.

Information on emergency liquidity assistance (ELA) is highly sensitive and should be exempted, especially for SMEs. Disclosure of ELA might give rise to speculation and increase liquidity difficulties.

Regarding the methodology, median value is relatively simple to calculate and is preferred to point-in-time; however, a time-weighted six-month average would give a better view as there would be less scope for window-dressing. Disclosure frequency should match the general frequency of prudential disclosure; a time lag of six months is reasonable.

4.3 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for 3 months and ended on 20 March 2014. A total of 29 responses were received, of which 23 were published on the EBA website.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases, several industry bodies made similar comments or the same body repeated its comments in the response to different questions. In these cases, the comments, and the EBA's analysis are included in the section of this paper where the EBA considers them most appropriate.

Changes to the draft guidelines have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

The majority of the respondents welcomed the draft guidelines noting that it would allow investors to have more accurate information on the financial situation of institutions by introducing harmonised requirements and increasing comparability.

Respondents welcomed the alignment with the implementing technical standards on supervisory reporting on asset encumbrance and stressed the need to align to the other existing standards such as IFRS, ESRB Recommendations and EDTF work in order avoid extra burden on the institutions.

Some respondents wanted more clarity on the scope of consolidation, noting that it should be the accounting scope to avoid confusion. However, as these disclosure requirements are part of Pillar III, they are closely linked to the relevant provisions in the CRR and not to the disclosure requirements in the financial statements, so the EBA finds that the prudential scope is valid. Nevertheless, the scope of consolidation has been clarified and aligned to mirror fully the personal scope of Part Eight of the CRR.

Respondents all rejected the proposed approach that 'public disclosures assets and matching liabilities encumbered to central banks via ELA shall be reported as unencumbered'. Most respondents considered the proposed representation as factually misleading. They stated that this approach might result in public disclosures that show available collateral levels increasing in stressed banks. The EBA believes that it must not give out misleading information and therefore has decided to include all central bank operations including ELA in the disclosures.

Overall investors almost universally preferred a higher level of transparency whereas the institutions believed that the proposed level of granularity was sufficient or even too granular.

The EBA has to find a balance between the demand for transparency and financial stability. Furthermore, considering the responses on ELA, the EBA believes it is more important to provide correct information than to increase the granularity of the templates at this stage. As such, banks will be required to disclose encumbrance arising from all operations with central banks (including ELA's) at a reduced level of granularity. This is also in line with the ESRB recommendation

The EBA had proposed that both the market and nominal value of collateral received or of own debt securities issued that are not available for encumbrance would be disclosed in Template B. Respondents argued that market value is more informative, especially in stress situations but nominal value in combination with fair value amounts would implicitly disclose the level of haircuts applied. The EBA has therefore decided not to request the nominal values to be disclosed at this stage. Furthermore, a new provision has been included to allow competent authorities to waive the requirement to disclose Template B if the competent authority deems that liquidity assistance in the form of collateral swaps could be detected.

The information in Template C was considered valuable by several respondents but banks considered it too sensitive. The EBA has amended Template C so that only the carrying amount of liabilities associated with encumbered assets and collateral received would be disclosed. The information required under Template D has also been revised to include securities lending and repo activities, as suggested by many of the respondents.

The EBA had proposed that the information be disclosed based on median values of at least quarterly data to avoid window-dressing and to ensure that sporadic spikes of encumbrance due to liquidity assistance from central banks would be smoothed out. Even though the responses were mixed and some respondents preferred point-in-time disclosure as in reporting, the EBA believes that median values best reflect the ESRB's recommendation. However, since the reporting of asset encumbrance will only apply as of 31 December 2014, the banks may choose to disclose the point-in-time data for the first disclosure, subject to approval by the competent authority, to reduce the operational burden.

Finally, the six-month time lag proposed by the EBA was generally accepted; respondents noted that a shorter maximum lag would be more useful but given the sensitivity of the information, a maximum six months after the publication of annual reports is considered appropriate. The EBA has therefore not amended the time lag but has clarified that the information should be disclosed in conjunction with the date of reference of the financial statements.

Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Level of disclosure	The majority of respondents welcome the draft guidelines on disclosure of encumbered and unencumbered assets. This framework would allow investors to have more accurate information on the institutions' financial situation by introducing harmonised requirements and increasing comparability. Some respondents said that transparency must go hand in hand with the increased burden on unsecured lenders in light of the recovery and resolution framework and the bail-in requirements. In these terms, more symmetry of information between regulators and private unsecured creditors is needed. Other respondents mentioned that there should be a balance between providing investors with useful information and avoiding an excessive reporting burden. In addition, respondents also indicated that it is important to find a balance between the granularity of disclosure and the potential systemic risk caused by the disclosure of information.	Increased transparency is one of the main goals of the proposed transparency regime. Nevertheless, some techniques must be introduced to prevent sensitive information with a potential systemic effect from being disclosed in an inappropriate manner.	No amendments.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Operational burden	Some respondents stated that to achieve transparency in this area, a gradual approach is needed, based on best practices and existing reporting templates, which would allow easy mapping to minimise the reporting burden. Many respondents mentioned that alignment as close as possible to the existing standards such as IFRS, the ESRB recommendations, and the work of EDTF is needed to minimise the additional reporting burden on banks. One respondent added that updates from IFRS 12 have not been taken into account. Some respondents welcomed the EBA's approach for alignment with the existing implementing standards on supervisory asset encumbrance reporting.	The level of disclosed information as proposed in the consultation paper is based on the asset encumbrance reporting templates. From this point of view, the disclosure templates will impose minimal burden to the banks. In any case the disclosure requirements are not supposed to go beyond the supervisory reporting templates in terms of indicators and granularity.	No amendments.
Scope of guidelines	Some respondents state that the scope of consolidation should be adjusted. The consolidation scope should be the accounting scope. The current disclosure requirements in the annual report are based on accounting consolidation, whereas the EBA Guideline is based on a regulatory consolidation. Disclosing similar information under different scopes could be confusing and reconciliation may be needed. One respondent said that the scope should be redefined as the current scope is disproportionate in terms of banks that are exempted from disclosure on a solo level. One respondent argued that it is not clear whether accounting or regulatory figures should be used. Another respondent said that the location of the disclosure	The asset encumbrance disclosure requirements are closely linked to the Pillar III provisions and not to the disclosure requirements in the financial statements. Based on this, the prudential scope of consolidation is clearly valid.	The asset encumbrance disclosure requirement has been aligned to reflect fully the personal scope of Part Eight pursuant to Article 6(3) of the CRR (i.e. no disclosure at the solo level for subsidiaries included in disclosure at the consolidated level), change to Title I,

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	should not be specified. Flexibility should be retained by the banks and the location of disclosure and scope of consolidation should be consistent.		point 1.
Principle of proportionality	Some respondents suggested that under the principle of proportionality the disclosure requirement for small- and medium-sized institutions should not be more granular than that for supervisory purposes as any additional information would increase the compliance costs. Some respondents argued that the EBA should minimise the reporting burden as the framework is not appropriate and too burdensome with minor benefits. On the other hand, one respondent mentioned that disclosure principles based on materiality should be avoided as this might undermine the transparency required by the market.	As the disclosure requirements are based on the reporting templates and do not go beyond them, the compliance burden should be minimal.	No amendments.
Disclosure of emergency liquidity assistance	Some respondents mentioned that the guidelines must be clear and must not leave any room for interpretation and doubts as any uncertainties could provoke a negative market reaction. Similarly, another respondent said that a global definition of encumbrance would be good, because the current one is open to interpretation. One respondent mentioned that position-sensitive information should be avoided. Another respondent mentioned that once information is disclosed to the market, it will be difficult to stop	To clarify the requirements, some redrafting was done, especially in the context of liquidity assistance received from the central banks.	Change to Title I, points 4 and 5.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	disclosing that information in the future.		
Narrative information	Some respondents said that Template D would be less comprehensive if it stays in an open text format and that institutions should not disclose information on liquidity assistance from central banks whether positive or negative. This could reduce comparability. Another respondent proposed that narrative information on encumbrance should be disclosed only when relevant (similar to the ESRB recommendations). One respondent added that specifications for the sources of encumbrance are needed in Template C. The same respondent said also that specifications for every single cell have to be elaborated.	The narrative in Template D is intended to encompass aspects and more specific information, not covered by the other templates. Open text format does reduce the comparability of information, but it is complementary to the other requirements and also provides an opportunity for the banks to disclose more information if necessary. It has been clarified that the narrative information must not refer to the existence or non-existence of central bank liquidity assistance toward the institution/consolidated group.	Change to Title II, point 8.
Responses to questions in Consultation Paper EBA/CP/2013/48			
Question 1.	Overall, investors almost all preferred a higher level of transparency, whereas respondents from banks believed that the current level of disclosure is sufficient or too granular and they referred to extra operational burdens and the sensitivity of the information Half of the respondents preferred guidelines with more granular disclosure requirements. Proposals made frequently by these respondents were to implement a more granular breakdown of assets by balance-sheet category (separate categories for covered bonds, government bonds, corporate bonds, central bank, supranational debt), and, in particular, increase granularity for unencumbered assets and consider individual circumstances, for	The EBA has to find a balance between the demand for transparency and financial stability. Furthermore, considering the responses on ELA, the EBA believes it is more important to provide correct information than to increase the granularity of the templates at this stage. As such, banks will be required to disclose encumbrance arising from all operations with central banks (including ELA's) at a reduced level of granularity. This is also in line with the ESRB recommendation.	Change to Title I, points 4 and 5, and Title II, points 2, 4 and 5.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	example, via introducing derogations for smaller banks. On the other hand, many respondents, in particular, the banks, considered the proposed granularity sufficient or too high. Their main reasons were that the information at issue is very sensitive and a more granular disclosure would require significant bank resources. Many respondents believed that the EBA should align the disclosure with the EDTF recommendations to give banks the ability to tailor the disclosure to fit it to their risk and asset profile.		
Question 2.	In accordance with the responses to question 1, most respondents representing the buy-side preferred more information on the quality of assets to be included in the disclosure. Proposals made frequently by these respondents were to distinguish between 'investment grade' and 'below investment grade', to base the asset quality on ratings and to align it to the HQLA categories. Most of the respondents representing banks were against the inclusion on information on the quality of assets in the disclosure. Their main reasons included i) no uniformly defined quality indicator; ii) the information is very sensitive; and iii) reliance on ratings should be restricted. Some respondents proposed that the EBA should align its rules to the LCR regime, respectively IFRS 7.	Following the responses to question 1 and with reference to the fact that there is no accepted neutral definition for the respective asset quality, the EBA believes that there is no need to include also information on the quality of assets at this stage. This is also in line with the ESRB recommendation.	No change.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Question 3.	The unanimous opinion was to reject the approach proposed that 'public disclosures assets and matching liabilities encumbered to central banks via ELA shall be reported as unencumbered'. Most of the respondents considered the proposed representation as factually misleading. They stated that this approach might result in public disclosures that showed available collateral levels increasing at stressed banks. Some respondents thought that the disclosure in Template A could lead to the detection of the level and evolution of assets of an institution encumbered with a central bank. They considered that the following situations might allow detection: small- and medium-sized institutions that are less complex; institutions without a large repo business; if it was generally known that a bank was dependent on central bank funding; if loans are reported separately. Other respondents believed that the disclosure in Template A could not lead to the detection of the level and evolution of assets of an institution encumbered with a central bank. A few even thought that concealing ELA should not be permanent and all kinds of encumbrance to central banks should be included in the appropriate totals.	The EBA believes that it cannot give misleading information and therefore decided to fully include ELA in the disclosure. The EBA also believes that the disclosure requirements in the Guidelines should ensure that the detection of the level and evolution of assets of an institution encumbered with a central bank via liquidity assistance in and out of the asset encumbrance disclosure is not possible. Referring to question 1, the EBA has therefore decided to decrease the level of granularity and to ensure that institutions do not disclose any information on liquidity assistance from central banks in Template D, whether positive or negative. This is also in line with the ESRB recommendation.	Change to Title I, points 4 and 5, and Title II, points 2, 4, 5 and 8.
Question 4.	Some respondents argued that the nominal amount was not a relevant indicator and that market value would be more informative, especially during times of stress. Other respondents agreed with the proposal in the	The EBA acknowledges Column 070 'Nominal amount of collateral received or own debt securities issued not available for encumbrance' in combination with Rows 020 and 030 will implicitly disclose the level of applied haircuts and provide	Change to Template B.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	template disclosure. One respondent said that the information is already available in the reporting templates and is available for disclosure. Another stated that such information might be useful, but was not essential. One respondent stated that in Template B, rows 010 and 040 showed fair value, while row 070 required the nominal amount. This would implicitly disclose the level of applied haircuts. Another argued that where the encumbrance was simply not an option for technical reasons, disclosure might lead to wrong conclusions. Furthermore, it would be necessary to set out criteria for designation as 'available for encumbrance'. Some respondents suggested reducing the differentiation to 'available for encumbrance' and 'not available for encumbrance' in Template B as it is not relevant for investors. Another respondent proposed that disclosure of own debt issued and packed to act as collateral may be more beneficial from a liquidity point of view and should be located elsewhere. Some respondents mentioned that it is not clear what 'nominal amount of collateral received or own debt issued not available for encumbrance' is exactly, and that this category consists of two elements and keeping it as one category does not make sense.	information relating to the credit quality of the collateral. The EBA decided to remove Column 070 'Nominal amount of collateral received or own debt securities issued not available for encumbrance' at this stage. This is also in line with the ESRB recommendation.	
Question 5.	Several respondents (on the banking and investment side of the industry) suggested that there was little merit in credit institutions	The changes made to Template A have also been made in Template B. In particular, items in rows 140 and 220 asking for credit institutions to disclose the	Additional provision in Title II, point 4.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	disclosing the nominal value of the unencumbered collateral received. The fair value of this collateral was much higher and was already included in Template B. Several respondents suggested that the granularity of Template B would benefit if it mirrored that in Template A. Many respondents (either on the banking, official sector or investor sides) noted the sensitivity in encumbrance disclosures that <i>de facto</i> disclose liquidity assistance. Some respondents referred to the ESRB Recommendation that the EBA should ensure that the guidelines do not allow detection of the level and evolution of encumbrance to central banks, including liquidity assistance. A few respondents noted that this information was particularly sensitive for smaller institutions that do not receive debt securities collateral in the normal course of their business. Some respondents (either from advisory, banking or real money investor sides of the industry) further noted that disclosures were either sufficiently aggregated or needed to be sufficiently aggregated to enable high-level encumbrance disclosures that encompass both market-based and central-bank transactions. In addition, a few respondents (on the banking side) suggested that collateral swaps with central banks were extremely rare.	collateral that they receive in encumbering transactions by loan on demand and loans and advances other than on demand are no longer required at this level of decomposition. Because the data are sufficiently aggregated, all collateral debt securities received whether from market participants or central bank are included. In line with the Recommendation ESRB/2012/2 of the ESRB and subject to the objective criteria, a provision has been included to allow a competent authority to waive the requirement to disclose Template B if it deems that liquidity assistance provided by central banks in the form of collateral swaps could be detected.	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Question 6.	Several respondents thought that it would be valuable for Template C to be disclosed and supplemented by a narrative. In contrast, several respondents (on the banking or the official sector side) thought that information breaking down the sources of encumbrance was too sensitive to be disclosed in Template C. In addition, some respondents noted that banks already disclosed some information on collateralised liabilities and were concerned that the granularity in Template C could give rise to misinterpretations. One respondent commented that for certain sources of encumbrance, such as derivative or securities lending, it might be more helpful to consider disclosures on the basis of net liabilities rather than on gross liabilities as proposed in Template C. Several other respondents noted that the granular lines items proposed for Template C would still be subject to the decision by individual institutions on how to categorise the underlying transactions, for example based on their internal collateral management practices. In their opinion, this raised concerns about the extent to which the resulting decomposition in Template C would truly be comparable across institutions. Another respondent noted that for the purpose of resolution, client assets were treated differently across European jurisdictions and these treatments	The guidelines have been amended for institutions to only disclose the carrying amount value of the liabilities associated with their encumbrance in Template C. Line items decomposing this carrying amount by derivatives (row 020), deposits (row 040), debt securities issued (row 090) and other sources of encumbrance (row 120) are no longer required. Narrative disclosures in Template D required institutions to include information on at least their main sources and types of encumbrance, detailing, if applicable, encumbrance due to significant activities with derivatives or covered bond issuance as well as securitisation. This guidance has been amended to also include information on securities lending and repos and to information on the amount of items included in 'Carrying amount of unencumbered assets'/'Other assets' in Template A.	Change to Template C and to Title II, point 8.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	were continuing to evolve, also raising concerns around the true comparability of the resulting decomposition of sources of encumbrance in Template C. A few respondents also suggested that a good compromise would be for only the total line item (row 010) in Template C to be disclosed, supplemented by a narrative. Several others respondents argued that for the time being a narrative would be sufficient given sensitivities. One respondent argued that a narrative would also be less expensive for the banks in terms of the disclosure process. Some respondents thought that information on the sources of encumbrance should be disclosed. Several respondents (on the investor side) noted that to assess risks, it is important for disclosures to reflect the specific factors in institutions' business models which drive their encumbrance, for instance, their funding needs, trading activities and risk management practices. One respondent suggested that information on repo and securities lending should also be also disclosed.		
Question 7.	Many respondents provided feedback on this question. Views were wide ranging and polarised. A few respondents called for disclosures to be on a point in time as well as a median basis. Proponents of point-in-time disclosures noted that this presentation fitted more readily with existing balance sheet disclosures. Proponents of median	Many of the metrics proposed rely on daily data being readily available at banks at no extra cost, which is not the case. In addition, some of the metrics proposed disregard the consequences on financial stability of disclosing very granular data that would enable the detection of the level and evolution of encumbrance to central	Change to Title II, point 7.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	values suggested that, ex ante, these would reduce the risks of ex post disclosures providing direct or indirect sight of central bank support and thus having unintended consequences on financial stability. In addition, medians were less likely to be affected by end-period window-dressing. A few respondents suggested alternative and/or complementary metrics including the average or maximum amount of assets pledged during a reporting period, time-weighted six-monthly averages where more recent observations have larger weights so there is less scope for window-dressing and median values supplemented by inter-quartile ranges. One respondent suggested that the volume of encumbered assets may cover only a few transactions for small and medium-sized institutions, questioning the extent to which it was proportionate for the guidelines to require the same level of disclosures irrespective of the relevance of the data.	banks, including liquidity assistance. As such, the EBA believes that the information should be disclosed based on median values of at least quarterly data on a rolling basis over the previous twelve months. This is also in line with the ESRB recommendation. Since the asset encumbrance disclosure is to be based on the asset encumbrance reporting, and as the asset encumbrance reporting will only apply as per 31 December 2014, for the first disclosure (i.e. as per 31 December 2014) credit institutions may decide whether to reconstruct their end-of-quarter asset encumbrance reporting data required for the disclosure, or to disclose point-in-time data instead; in any case, banks will have to include in their narrative the type of time reference (point-in-time, or medians of quarterly or monthly values).	
Question 8.	One respondent suggested that information on repo and securities lending should be also disclosed in Template D.	The main sources and types of encumbrance suggested for the narrative in Template D have been revised to include securities lending and repo	Change to Title II, points 8 and 9.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	Almost all respondents commented on the question of whether the guideline should explicitly state that emergency liquidity assistance should not be disclosed. Views were wide ranging and polarised. Respondents on the investor side noted that their preference would always be for more granular disclosures that included encumbrance to central banks but did not necessarily require that emergency liquidity assistance be specifically identified. Respondents from banks and official sector side raised concerns about the unintended consequences of granular disclosures that could reveal encumbrance to central banks, including liquidity assistance. Arguments in favour of full-market based and central-bank-aggregated disclosures appealed to the possible distortions that could result from asymmetries of information created by excluding liquidity assistance from the templates. Many respondents warned against the possible conflicts that the initial guidelines could lead to in asking for institutions to disclose encumbered assets to central banks to be disclosed as unencumbered. Finally, a few respondents noted that liquidity assistance operations varied across jurisdictions and suggested that clarifications should be provided around the types of liquidity assistance that would fall under the definition of emergency	activities. The guidelines will require sufficiently aggregated disclosures so that encumbrance arising from transactions with both the market and central banks can be captured without requiring institutions to specifically identify encumbrance to central banks, including liquidity assistance. In addition, in Template D, institutions should not disclose information on liquidity assistance from central banks, whether positive (i.e. in receipt of liquidity assistance) or negative (i.e. not in receipt of liquidity assistance). The guidelines have been amended to require that aggregated data is disclosed so that assets encumbered by transactions with central banks are treated as encumbered. The guidelines have also been amended to draw the attention of disclosing institutions to the choice of	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	liquidity assistance proposed.	location of their disclosures as specified in Article 434 of the CRR. The guidelines have been revised to require sufficiently aggregated data that capture encumbrance in the market and to central banks, without requiring institutions to specifically identify encumbrance to central banks, including liquidity assistance.	
Question 9.	Proponents of a shorter maximum lag argued that these data are more useful when disclosed concurrently to both annual reports and half-yearly financial statements or quarterly management statements. Advocates of short lags also called for implementation to be no later than 2016. Opponents of a shorter maximum lag argued that the sensitive nature of the data requires a minimum lag or that disclosure no later than six months after the annual reports looks appropriate. Advocates of a long lag also noted that disclosures at a frequency higher than annually are costly for institutions. It was further noted that the lag between regulatory reporting and public disclosure in financial statements is left at the discretion of individual institutions and depends on the consolidation of the disclosing entity. For instance, one respondent noted that the time lag in annual accounts for consolidated group can be substantial and even more material in the case of subsidiaries (e.g. eight to ten months). This respondent also noted that for large banking groups with many	In accordance with Article 433 of the CRR, annual disclosures specified in these guidelines should be published in conjunction with the date of reference of the financial statements.	Clarification in Title II, point 10 to the effect of Article 433 of the CRR.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
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	EU-regulated entities, the reporting burden could be very high and that it was potentially not feasible to turn around this volume in a short period of time, thus calling for delayed implementation.		
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5. Confirmation of compliance with guidelines and recommendations

Date:

Member/EEA State:

Competent authority

Guidelines/recommendations:

Name:

Position:

Telephone number:

E-mail address:

I am authorised to confirm compliance with the guidelines/recommendations on behalf of my competent authority: ☐ Yes

The competent authority complies or intends to comply with the guidelines and recommendations: ☐ Yes ☐ No ☐ Partial compliance

My competent authority does not, and does not intend to, comply with the guidelines and recommendations for the following reasons¹⁰:

Details of the partial compliance and reasoning:

Please send this notification to compliance@eba.europa.eu¹¹

¹⁰ In cases of partial compliance, please include the extent of compliance and of non-compliance and provide the reasons for non-compliance for the respective subject matter areas.

¹¹ Please note that other methods of communication of this confirmation of compliance, such as communication to a different e-mail address from the above, or by e-mail that does not contain the required form, shall not be accepted as valid.