

EBA/Op/2021/13

17 November 2021

Opinion of the European Banking Authority on the Equivalence of supervisory and regulatory requirements in relation to Bosnia and Herzegovina

Introduction and legal basis

1. The EBA competence to deliver an opinion is based on Article 34(1), 33(2) of Regulation (EU) No 1093/2010¹, as third country supervisory and regulatory equivalence relates to the EBA's area of competence.
2. In accordance with Article 14(5) of the Rules of Procedure of the Board of Supervisors², the Board of Supervisors has adopted this opinion.
3. In accordance with Articles 107(3), 114(7), 115(4), 116(5), 132(3), and 142(2) of Regulation (EU) No 575/2013 (Capital Requirements Regulation, CRR), exposures of institutions in third countries may be treated in the manner laid down therein (preferential treatment) provided that the third country applies to institutions prudential, supervisory and regulatory requirements and arrangements at least equivalent to those applied in the Union. The European Commission may adopt an Implementing Decision as to whether a third country applies prudential supervisory and regulatory requirements or arrangements which are at least equivalent to those applied in the Union.
4. Following the European Commission's call for advice, the EBA is providing input for the assessment as to whether the prudential, supervisory and regulatory requirements and arrangements applied in Bosnia and Herzegovina to institutions are equivalent to those of the Union. The EBA was requested to provide technical advice on the equivalence between the legal and supervisory frameworks of these countries and the EU framework in view of prudential requirements for EU credit institutions and investment firms as regards the following:

¹ 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) (OJ L 331, 15.12.2010, p. 12).

² Decision adopting the Rules of Procedure of the European Banking Authority Board of Supervisors of 27 November 2014 (EBA/DC/2011/01 Rev4).

- exposures to third country investment firms, credit institutions, clearing houses and exchanges (CRR Art. 107(3) and (4), exposures to third country central governments and central banks (CRR Art. 114 (7)), exposures to third country regional governments or local authorities (CRR Art. 115 (4)), exposures to third country public sector entities (CRR Art. 116 (5), exposures in the form of units or shares in third country CIUs (Collective Investment Undertaking) (CRR Art. 132 (3)); and
- with regards to the definition of a large financial sector entity (CRR Art. 142 (4)).

Assessment scope, process and methodology

5. The EBA established a Network of Equivalence (NoE) composed of experts from national competent authorities to support the assessment work. The network developed a questionnaire to facilitate the collection of data and guide the equivalence assessment.³ The assessment work has been based on the input from the relevant third country authorities in the questionnaire, as well as subsequent communication with the authorities and relevant local legislative and regulatory documents.
6. The scope of the assessment covers the regulatory and supervisory framework for credit institutions as foreseen in CRR and CRD.
7. The assessment is structured several sections which are assessed using a qualitative approach with a five-grade scoring scale (super-equivalent, equivalent, largely equivalent, partially equivalent, and non-equivalent). At country level a two-grade scoring scale is used (equivalent, non-equivalent) aggregating the section scores.
8. The equivalence assessment is based on the relevant supervisory and regulatory framework in force as documented in domestic laws and regulations and explained by local authorities. During the assessment, the EBA Staff and some experts from NoE conducted dedicated on-site visits at the third-country authorities (Banking Agency of Republika Sprska and Federal Banking Agency of Bosnia and Herzegovina), which allowed to gain a full understanding of the actual application the supervisory framework, as well as to clarify certain aspects of regulatory provisions.
9. The assessment of equivalence is based on legislation and regulation in force at the time of the assessment. Whereas planned and future regulation can be mentioned in the assessment, it is not considered to be an adequate support for the equivalence decision, unless it is already in a very advanced stage.

Outcome of the Assessment

³ The questionnaire has been made publicly available on the EBA website: <https://eba.europa.eu/sites/default/documents/files/documents/10180/2613666/ec3d2202-a08e-42f6-9216-f5df332fa1a5/EBA%20methodology%20for%20the%20assessment%20of%20regulatory%20and%20supervisory%20equivalence%20of%20third%20countries%20-%201st%20step.pdf> (1st Step)

<https://eba.europa.eu/sites/default/documents/files/documents/10180/2613666/59507cf6-c929-4e75-8f7d-e8db8ecaaa97/EBA%20Questionnaire%20Equivalence%202st%20step.pdf> (2nd Step)

10. Based on the assessment carried out off-site and on-site, the EBA considers that the following country apply to credit institutions prudential, supervisory and regulatory requirements and arrangements which are to be regarded as equivalent:

- Bosnia and Herzegovina

This opinion will be published on the EBA's website.

Done at Paris, 11 November 2021

[signed]

Jose Manuel Campa

Chairperson

For the Board of Supervisors