Outdated

COMMISSION de SURVEILLANCE du SECTEUR FINANCIER

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 6 March 2012

To all credit institutions and investment firms incorporated under Luxembourg law and to the branches of non-EU credit institutions and investment firms

CIRCULAR CSSF 12/535

Re: Changes to advanced measurement approaches (AMA) for operational risks

Ladies and Gentlemen,

On 6 January 2012, the European Banking Authority (EBA) published guidelines on the extensions and changes to the Advanced Measurement Approaches (AMA) for operational risk (EBA Guidelines on Advanced Measurement Approach (AMA) - Extensions and Changes (GL 45), "GL45" hereafter).

In accordance with Point 26 of Part XV of Circulars CSSF 06/273 and CSSF 07/290, credit institutions and investment firms ("institutions" hereafter) are allowed using Advanced Measurement Approaches (AMA) based on their internal models to determine the regulatory capital charge for operational risk. To this end, AMA approaches must first be approved by the CSSF in accordance with the provisions laid down in Circular CSSF 06/260.

However, AMA approaches are not immutable. They change especially with methodological progress, experience and changes in the operational risk profile of the institution. The purpose of the GL45 is to harmonise at European level the approval processes of supervisory authorities relating to changes to AMA approaches.

The GL45 introduces four categories of changes to AMA approaches: extensions, significant changes, major changes and minor changes. Only extensions and significant changes need a prior approval. Major and minor changes only need to be notified to the CSSF. The CSSF does not approve them but may reject them.

The GL45 does not include any requirements regarding the modelling or the management of operational risk.

Points 1 and 2 transpose the GL45 into Luxembourg regulations.

1. Institutions that use the advanced measurement approaches AMA to determine their regulatory capital charge for operational risk must comply with Section III (EBA Guidelines on Advanced Measurement Approach (AMA) - Extensions and Changes (GL 45)) of EBA's GL45 appended to this circular.

2. This circular comes into force with immediate effect.

Yours faithfully,

Claude SIMON	Andrée BILLON	Simone DELCOURT	Jean GUILL
Director	Director	Director	Director General

Annexe: *EBA Guidelines on Advanced Measurement Approach (AMA) - Extensions and Changes (GL 45) (www.eba.europa.eu)*

EBA Guidelines

on

Advanced Measurement Approach (AMA) - Extensions and Changes

(GL 45)

London, 6 January 2012

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I. Executive Summary

1. Article 105(1) of Directive 2006/48/EC and Article 20(1) of Directive 2006/49/EC allow credit institutions and investment firms (hereinafter, 'institution(s)') to use Advanced Measurement Approaches ('AMA'), based on their internal risk models to determine the regulatory capital charge for operational risk, provided these internal models are expressly approved by the competent authorities.

2. An AMA should, at all times, be tailored to the specific characteristics of the institution, so that its actual operational risk profile is effectively covered. Therefore institutions need to review, change and may extend the AMA as appropriate.

3. The present Guidelines provide institutions with guidance on how to communicate AMA extensions and changes to the competent authorities and on how to define internal policies for AMA extensions and changes (AMA Change Policy) in line with supervisory expectations. The Guidelines deal only with the process for the approval of, or communication with, competent authorities regarding AMA extensions and changes. The Guidelines do not contain requirements regarding the modelling or risk management of institutions. According to these Guidelines, changes have to be categorised according to their materiality as 'significant', 'major' or 'minor' changes. This classification is important because, while for extensions and significant changes prior approval by the competent authorities is a requirement under these Guidelines, major and minor changes need only to be notified to them. Supervisors will review the AMA change policies and ultimately either approve (in the case of extensions and significant changes) or object to (in the case of major and minor changes) any proposed change or extension. The Annex to these Guidelines elaborates on the criteria for the classification of extensions and changes in the different categories mentioned above.

4. On 15 December 2010 the predecessor organisation of the EBA, the Committee of European Banking Supervisors (CEBS), submitted the draft Guidelines on AMA changes for public consultation until 15 March 2011. Five responses were received[1]. In addition, a public hearing was held on 23 February 2011 at the European Banking Authority's (EBA) premises in London, to allow interested parties to share their views with the EBA.[2]

5. Overall, participants at the public hearing and respondents to the public consultation were supportive of the proposed Guidelines on AMA changes and appreciated that the Guidelines clarify the requirements of communication of AMA changes and/or extensions to competent authorities and that they also clarify relevant supervisory processes, as this facilitates the further development of AMA models across the industry. They suggested that similar Guidelines would be helpful for credit risk and market risk models as well. The

[1] The public responses to CP45 are published on the EBA website together with the consultation paper (CP 45).

[2] A summary of the results of the public hearing has been published on the EBA website together with the consultation paper (CP 45)

main issue raised was that it would be beneficial to clarify the categories of major and significant changes. It was also suggested that a definition of more concrete quantitative criteria for distinguishing between major changes and significant changes would be useful. These suggestions were partly taken into account in the finalisation of these Guidelines. However, a common quantitative threshold was not set. The implementation of this aspect will be reviewed by the EBA and taken into account when binding technical standards on the conditions for assessing the materiality of extensions and changes to the AMA will be developed.

6. The EBA conducted a cost and benefit analysis, considering the costs for institutions and competent authorities. The implementation of the Guidelines is expected to trigger low one-off costs for AMA institutions and competent authorities, especially as the Guidelines only affect a limited number of EU banking groups and institutions using an Advanced Measurement Approach (AMA) for the calculation of the capital requirements for operational risk. Clear communication rules are expected to lead to a smoother process, avoiding case-by-case decisions on the appropriateness of a process and reduce the cost for home/host coordination of competent authorities regarding this matter. Institutions will have more legal certainty about AMA changes being in line with supervisory requirements. An impact on the economy of the EU or a single member state is not expected. The costs of the Guidelines are not unreasonable, as a more consistent treatment of AMA changes will be achieved throughout the EU.

7. Competent authorities should undertake all steps to apply the EBA Guidelines on the Advanced Measurement Approach (AMA) - Extensions and changes by 6 March 2012, as mentioned in title III thereof.

II. Background and rationale

1. Directive 2006/48/EC, Article 105states, in paragraph (1) that credit institutions may use Advanced Measurement Approaches ('AMA') based on their own operational risk measurement systems, provided that the relevant competent authority expressly approves the use of the models concerned for calculating the own funds requirement; in paragraph (2) it states that credit institutions shall satisfy their competent authorities that they meet the qualifying criteria set out in Annex X, Part 3 of the Directive.

2. The EBA issues these Guidelines in order to harmonise the communication to -and treatment by- competent authorities of AMA extensions and changes. The application of these Guidelines should also in practice assist institutions in further developing their own AMA by clarifying the supervisory expectations and processes.

3. More in particular, the present Guidelines provide institutions with guidance on how to communicate AMA extensions and changes to the competent authorities and on how to define internal policies for AMA changes in line with supervisory expectations. The Guidelines rely on the established administrative procedures and 'technical' channels for communication between competent authorities and institutions. The means of communication are therefore left to be defined by competent authorities.

4. An AMA extension is the introduction of new relevant AMA components (e.g. use of insurance, expected loss deduction), or the implementation of the AMA framework in parts of the group. Changes to an AMA comprise modifications that are essential for meeting the regulatory requirements in the area of operational risk management (Annex X, Part 3, Paragraphs. 2 and 5) and measurement systems (Annex X, Part 3, paragraphs 8-31 of Directive 2006/48/EC) and modifications with respect to internal governance structure and procedures (Annex X, Part 3, paragraphs 2-7, Article 22 and Annex V of Directive 2006/48/EC).

5. An AMA including the internal risk model and risk management and control policies and procedures should, at all times, be tailored to the specific characteristics of the institution, so that its actual operational risk profile is effectively covered.

6. An institution is obliged to regularly review and, if necessary, to revise the AMA in response to changes in internal or external factors, for example, changes in its business activity or organisational structure, inclusion of additional data in the model, risk assessment, validation and audit results (Annex X, Part 3, paragraphs 5, 6 and 7 (a), in conjunction with Art. 105 paragraphs 1 and 2 of Directive 2006/48/EC).

7. Extensions and some changes to the AMA can have a considerable impact on the quality and reliability of the AMA and the institution's capital requirements at group and solo level; it is therefore necessary to involve the competent authority prior to their implementation.

8. If requests to extend or significantly change the AMA are submitted by an EU parent credit institution or jointly by the subsidiaries of an EU parent

financial holding company, competent authorities will follow the procedures envisaged by Art. 129 paragraph 2 of Directive 2006/48/EC. The responsibility for organising and coordinating the approval process for extensions and significant changes to the AMA are with the consolidating supervisor.

9. Changes to the AMA and to the quantitative methods used can be of differing degree of importance, or materiality, depending on the individual AMA. Depending on the materiality of an actual change (i.e. depending on whether this change constitutes an extension or a significant change, or a major or minor change), different requirements for communication with the competent authorities are provided by these Guidelines.

10. Minor changes are those changes which may occur more often, but which do not have a severe impact on the reliability of the AMA framework or the capital charge. However, such changes also need to meet the requirements set out in Annex X, Part 3 of Directive 2006/48/EC. Further, a *per se* insignificant change, in conjunction with other changes, might have a significant impact and, in such cases, needs to be considered accordingly.

11. While extensions and significant changes require prior approval, major and minor changes need to be notified to the competent authority. Different processes were chosen to reduce the number of approval processes needed and the connected costs and to allow institutions to adopt smaller changes in a timely manner. Institutions need to document the internal procedures and responsibilities for extensions and changes in an AMA change policy.

12. The Annex to these Guidelines elaborates on the criteria for the classification of extensions and changes in the different categories mentioned above. The criteria that an institution provides for in its AMA Change Policy are expected to be broader than those outlined in the Annex, taking into account the institution's individual AMA particularities. Given the young and evolutionary nature of operational risk as a risk discipline, this was deemed the preferred approach, given that banks combine the required elements contained within the AMA framework, in a large variety of ways.

13. On 20 July 2011, the European Commission (EC) adopted legislative proposals, with the view to strengthening the regulation of the banking sector. These proposals contain a requirement for the EBA to develop draft regulatory technical standards to specify the conditions for assessing the materiality of extensions and changes to the AMA. According to this proposal, the EBA shall submit the draft regulatory technical standard to the Commission by 31 December 2013.

14. The implementation of the Guidelines and the experience gained by assessing model changes according to these Guidelines will be beneficial for developing the future draft regulatory technical standard.

III. EBA Guidelines on Advanced Measurement Approach (AMA) - Extensions and Changes (GL 45)

Status of the Guidelines

1. This document contains guidelines issued under 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 (*EBA Regulation*). In accordance with Article 16(3) of the EBA Regulation, competent authorities and financial market participants must make every effort to comply with the guidelines.

2. Guidelines set out 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. EBA therefore expects all competent authorities and financial market participants to whom guidelines apply to comply with guidelines unless otherwise stated. Competent authorities to whom guidelines apply should comply by incorporating them into their supervisory practices (e.g. by amending their legal framework or their supervisory rules and/or guidance or supervisory processes), including where particular guidelines within the document are directed primarily at institutions.

Reporting Requirements

3. Competent authorities must notify EBA whether they comply or intend to comply with these guidelines, or with reasons for non-compliance, by 6 March 2012. Notifications should be sent by submitting the form provided in Section V of the present document to compliance@eba.europa.eu. Notifications should be submitted by persons authorized to notify EBA on behalf of their competent authorities. 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.

4. The notification of competent authorities mentioned in the previous paragraph shall be published on the EBA website, as per article 16 of EBA Regulation.

In between the text of the Guidelines that follows, further explanations on specific aspects of the guidelines are occasionally provided, which either offer examples or provide the rationale behind a provision. Where this is the case, this explanatory text appears in a framed text box.

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Title I - Subject matter and scope

Article 1

Subject matter

These Guidelines harmonise practices and procedures for the internal practices of institutions and for the supervisory treatment of extensions and changes to an Advanced Measurement Approach ('AMA') used for determining the regulatory capital charge for operational risk.

Article 2

Scope and level of application

These Guidelines apply to competent authorities and institutions using an AMA for the purpose of calculating the capital requirement for operational risk and, if the AMA is used on a unified basis, to the EU parent credit institution or the EU parent financial holding company.

Title II- Requirements regarding AMA extensions and changes

Article 3

AMA Change Policy

1. An institution shall approve at the appropriate hierarchy level, and shall implement, internal policies for AMA extensions and changes (AMA Change Policy), including procedures and responsibilities for the internal approval of AMA extensions and changes, taking into account its organisational characteristics and AMA specificities.
2. Within an AMA Change Policy, the institution shall document its principles and procedures for classifying and processing planned AMA extensions and changes. This shall include appropriate criteria for the classification of possible changes and the internal processes and responsibilities for implementing and documenting AMA extensions and changes.
3. The classification of planned AMA extensions and changes shall be made into the four categories described below (under article 4). The basic criteria for the classification of planned AMA extensions and changes are elaborated in the Annex to these Guidelines. Nevertheless, institutions shall include in their AMA change policy only the criteria which are applicable to their specific AMA, and shall develop further criteria than those described in the Annex, taking into account the particularities applying to their AMA.
4. Further, the AMA Change Policy shall provide for an internal or external independent review of planned extensions or significant changes.

5. The institution shall re-examine and adjust the AMA Change Policy to reflect changes within its internal governance or AMA framework as appropriate.

6. The AMA Change Policy and its application shall be subject to regular independent review.

Article 4

Categories of changes to the AMA according to their materiality

1. The AMA Change Policy shall use the following categories of extensions and changes:

   a. Extensions;

   b. Significant changes;

   c. Major changes; and

   d. Minor changes.

2. The classification of any intended change shall not be considered in isolation but it shall instead be assessed in connection with other changes that have been made previously, that are intended to take effect at the same time, or changes that are already planned for the future.

3. The categories and to the extent applicable to each institution the classification criteria of the different types of changes mentioned above shall be integrated in the internal AMA Change Policy. The institution shall add further details to the AMA Change Policy consistent with the characteristics of the institution's internal governance and AMA framework.

4. In cases where the classification of a change based on the actual quantitative impact on the regulatory capital and the classification of the same change based on qualitative criteria are different, institutions shall classify the relevant change in the category of higher materiality.

5. Irrespective of the criteria provided for the classification of possible changes in an institution's AMA Change Policy, competent authorities retain the right to reclassify the materiality of an actual AMA change and apply the respective supervisory procedures according to these Guidelines.

Article 5

Submission of the AMA Change Policy

1. The institution or, if the AMA is used on a unified basis, the EU parent credit institution or the EU parent financial company, shall submit its AMA Change Policy and any subsequent modification to the competent authority.

2. Institutions applying to use an AMA shall also submit to competent authorities an AMA Change Policy as part of the required documentation.

Article 6

Supervisory procedures for extensions and significant changes

1. The implementation of extensions and significant changes to the AMA, as defined in accordance with the criteria contained in the Annex, chapters A and B, shall be subject to an explicit approval by competent authorities. The applicable procedure for getting such a supervisory approval shall be that described in the provisions of the 'CEBS Guidelines on Validation' shall be applied as appropriate.

Explanatory note:
The CEBS Guidelines on Model Validation (published 4 April 2006) can be found on the EBA website under 'Publications'. For the assessment of model changes the parts of the Model Validation Guidelines that relate to the home-host cooperation procedures, approval and post-approval processes (Section 2) are of utmost importance.

2. An institution wishing to extend or significantly change the AMA shall file an application with the competent authority in good time, prior to the planned implementation, and submit the necessary documentation to assess that the extended or changed AMA still complies with the regulatory requirements, including at least:

   a. the description of the extension or significant change;

   b. its rationale, objective and the expected effects on the AMA regulatory capital; and

   c. the report of the independent review of the planned extension or significant change.

3. Following receipt of the complete application the competent authority shall assess the proposed extension or significant change, initiate the appropriate approval process and subsequently decide whether or not to grant the institution a permit to extend and/or significantly change the AMA framework.

4. The approval of an extension or significant change communicated to the institution may be made conditional upon the fulfillment of supplementary actions (e.g. a parallel running of the old and new AMA framework) or may be accompanied by recommendations for the improvement of the extended and/ or changed parts of the AMA. The competent authorities shall explain their reasoning behind these conditions and/or recommendations.

Article 7

Supervisory procedures for major changes

1. An institution shall inform the competent authority in good time, prior to the planned implementation, of a major change to its AMA (according to the Annex, chapter C). It shall produce the necessary documentation,

including the outline of the change, its rationale, objective and effects on the AMA regulatory capital.

2. The competent authority shall evaluate the AMA change and inform the institution of any regulatory objections to the change. This may entail recommended or mandatory remedial actions, suggestions for the possible improvement of the new/changed parts, or other specific requests (e.g. a parallel running of the old and new AMA framework) and their rationale.

3. The institution should apply the change for regulatory purposes only after receiving an affirmative reply from the competent authorities.

4. If the competent authority reclassifies the change as an extension or as a significant change, it shall inform the institution, and a separate formal application and approval process shall be carried out as required under Article 6.

Article 8

Supervisory procedures for minor changes

1. Minor changes to the AMA shall also be part of the AMA Change Policy and shall be documented appropriately.

2. The competent authority shall require an AMA institution to notify minor changes at least on a yearly basis. These changes may be reviewed within other AMA reviews, not specifically directed to the review of such changes.

Title III- Final Provisions and Implementation

Article 9

Transitional provisions

Institutions which have received an AMA approval by 31 December 2011 or institutions applying for an AMA before 30 June 2012, shall be required to submit their AMA change policy to the relevant competent authority by 30 June 2012.

Article 10

Date of application

EU competent authorities shall implement the Guidelines by incorporating them within their supervisory procedures by 6 March 2012. After that date, competent authorities shall ensure that institutions comply with the Guidelines effectively. Within their national rules, competent authorities shall provide information by which means the institutions should communicate their AMA extensions and changes to the competent authorities and how competent authorities transmit their response to the institution.

Annex 1 – Criteria for classification of extensions and changes into, significant, major and minor changes

This Annex provides a non-exhaustive list of cases that are classified as extensions, and significant, major and minor changes. This list acts as a guide to classify changes according to their materiality.

A) Extensions to the AMA framework

1. Extensions to the *measurement system* are the:

   a. First-time reduction of the AMA regulatory capital by the expected loss offset;

   b. First-time introduction of operational risk mitigation techniques (e.g. insurance or other risk transfer mechanisms);

   c. First-time introduction of diversification benefits; and

   d. First-time introduction of an allocation mechanism at group level.

2. The following types of extensions or changes to the scope of application of the AMA, shall be considered as extensions to the AMA framework, only if they have a significant influence on the risk profile of the institution:

Explanatory note:
When calculating the capital requirement for operational risk, institutions need to take into account mergers and acquisitions and changes of the internal business structure. This may impact also on the scope of the use of an AMA. If such extensions or changes have only an insignificant influence on the risk profile, institutions may apply such changes without a prior approval process and include those changes to the category of major and/or minor changes.

   a. Extension to parts of the institution not yet covered by the approval, if not contained in the roll-out plan submitted with the application for the use of the AMA; and

   b. Variation of a hitherto applied Partial Use relating to individual locations, legal units or business units, if not contained in the roll-out plan submitted with the application for the use of the AMA.

B) Significant changes to the AMA

Significant changes to the AMA include:

a. Fundamental changes in the structure and characteristics of the calculation data set (e.g. first-time use of new external data sources, switch from incorporated external data sources);

b. Fundamental changes in the measurement system due to modification in the logics or methods (e.g. a switch from essentially data-related approaches to mainly scenario-based models or vice-versa, changes in the criteria for the use or weighting of the four elements and

changes in the distributional assumptions/parameter estimation procedure), or to important changes within the group structure (e.g. abandonment of significant business units, including subsidiaries);

c. Changes in the logics and drivers of the allocation mechanism; and

d. Fundamental changes in the organisational and operational structure of the operational risk management function, in particular if they impinge on their independence (e.g. measures creating conflicts of interest or limiting the availability of resources).

C) Major changes to the AMA

Major changes to the AMA include:

a. Changes to the institution's internal procedures for collecting internal loss data, performing scenario analysis and determining business environment and internal control factors;

b. Changes to the measurement system due to modification in the logics or methods, or to changes in the group structure (e.g. changes of the reference date and/or the observation period for building the calculation data set, changes in the criteria/techniques to set the *de minimis* and/or body-tail modelling thresholds, changes in the granularity of the model, changes in the criteria/techniques for the determination of - previously approved - expected losses, mitigation techniques and recognised correlations.);

Explanatory note:
The *de minimis* modelling threshold represents the level of the losses above which the model is fitted to the data; the body-tail modelling threshold represents the level of the losses which distinguishes the body and tail regions, typically fitted by different methods.

c. Relevant changeover of IT systems for the AMA framework, data administration or reporting procedures;

d. Changes to the institution's logic and methods used for internally validating and reviewing the AMA framework; and

e. Changes that cause a considerable alteration to the operational risk capital charge. The alteration shall be calculated by comparing the capital figure resulting from the application of the actual AMA model and the proposed model after the changes. If the AMA is applied on a unified basis, the alteration is to be calculated only at group level. Competent authorities may set a threshold to define what constitutes a considerable alteration.

D) Minor changes to the AMA

All changes which do not meet the criteria defined in the institutions AMA Change Policy under one of the previous categories (A-C) above and which do not fall under one of these categories even when considered in connection with other changes, according to point 4.3 above of the Guidelines, shall be deemed to be minor changes to the AMA.

IV. Accompanying documents

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Costs and benefits regarding the Guidelines on AMA changes

1. The Guidelines harmonise practices and procedures for the internal practices of institutions and for the supervisory treatment of extensions and changes to an Advanced Measurement Approach ('AMA') used for determining the regulatory capital charge for operational risk.

2. The number of AMA institutions within the EU is limited. However, the AMA is mostly used on a group wide basis by larger banking groups, covering a significant part of the financial market.

3. The Guidelines deal only with the process for the approval of and communication with competent authorities regarding AMA extensions and changes, aiming at the introduction of a common process throughout the EU. The Guidelines do not contain requirements regarding the modelling or risk management of institutions. Therefore costs for changes to the model or the approval of such changes are not triggered by the Guidelines.

Costs and benefits for Institutions

4. To comply with these Guidelines, institutions need to develop an internal AMA change policy in line with the Guidelines. In particular institutions need to develop internal criteria to map possible changes to the categories defining the materiality of the change.

5. AMA institutions must comply with the regulatory requirements at all times. For this reason, institutions should already have in place an internal policy on how AMA changes are approved internally as part of their AMA framework. Such existing processes and the respective documentation need only to be amended and extended as a result of the need to comply with these Guidelines.

6. Similarly, institutions already need to review and update their internal policies asa regular task. It can be assumed that the amendment of internal AMA policies can be achieved by the staff in place within the operational risk management function. Therefore the development of the internal AMA change policy should only cause limited one off costs in the form of time commitment by existing staff and time commitment to maintain the policy.

7. Finally, institutions need to communicate AMA changes to the competent authority. The Guidelines clarify the communication requirements and the range of changes, which require a new approval. Clear processes reduce the costs of communication with competent authorities and provide more legal certainty regarding AMA changes.

Costs and benefits for competent authorities

8. The Guidelines should be implemented by national competent authorities in their national rulebooks. Competent authorities will receive the institutions' internal AMA change policy and will have to conduct change processes in line with the procedures set out in the Guidelines.

9. The implementation of the Guidelines on AMA changes will trigger one off costs for amending supervisory rulebooks and internal documents. A limited number of staff members in charge of the supervision of AMA institutions or subsidiaries of AMA institutions need to be informed.

10.The Guidelines will trigger minor additional one off costs in the form of time commitment for the review of the internal AMA change policies submitted by institutions. Competent authorities in charge of the supervision of AMA institutions need to be informed about the institutions internal policies as they will be involved in the change processes later on.

11.Competent authorities have to deal with AMA change processes anyway; this is not triggered by the Guidelines - hence these Guidelines do not give rise to any cost for the actual AMA changes. On the other hand, they are expected to give rise to the following benefits: firstly, a harmonised process is expected to facilitate communication and coordination efforts regarding the involvement of host supervisors; Secondly, these Guidelines will help to ensure that the relevant competent authority is informed in a timely manner about changes to the AMA.

12.In some cases the Guidelines state that a change has to be approved. This is just a clarification of the existing article 105 of Directive 2006/48/EC and not a new regulation. The Guidelines provide an interpretation about when such an approval is needed. Approval processes are already in place and competent authorities need to review the AMA regularly. The Guidelines ensure a level playing field regarding the approval of AMA changes across the European Union. In addition they ensure a more efficient interaction between competent authorities and firms, as approval is only required for changes of higher materiality rather than for every change.

13.For the above reasons, the Guidelines on AMA changes are not expected to trigger significant costs. Instead, they are expected to give rise to additional benefits, such as the establishment of harmonised processes, which facilitate the coordination of supervisory tasks among supervisory authorities. These Guidelines may therefore increase the efficiency of banking supervision in the field of AMA institutions.

Impact on the economy

14.The implementation of the Guidelines is expected to improve the communication between competent authorities and institutions. The implementation costs themselves are very low, so that the Guidelines have no impact on the economy in general. As the Guidelines do not change the capital requirements, it is not expected that they have any impact on the lending capacity of the banking system or other services offered.

15.States outside the EU (e.g. other Members of the Basel Committee), which have implemented the Basel II framework, are also faced with applications of banks to change the models used for measuring the regulatory capital requirements. An AMA approval process is also required by the so called Basel II framework. The mere clarification of approval and communication procedures has no impact on the level playing field of EU-institutions compared to non EU–institutions.

Conclusion

16.The implementation of the Guidelines is expected to trigger low one-off costs for AMA institutions and competent authorities. It is hoped, as a result of the implementation of the Guidelines, that clear communication rules will lead to a smoother process, avoiding case by case decisions on the appropriateness of a process and reduce the cost for home/host coordination of competent authorities regarding this matter. It is also expected that institutions will have more legal certainty about AMA changes being in line with supervisory requirements. An impact on the economy of the EU or a single member state is not expected. The costs arising out of the implementation of these Guidelines are not unreasonable, especially when compared to the expected benefits, i.e. the achievement, throughout the EU, of a more consistent treatment of AMA changes.

b. Feedback on the public consultation and on the opinion of the BSG

1. The European Banking Authority (EBA) officially came into being on 1 January 2011 and has taken over all existing and ongoing tasks and responsibilities from the Committee of European Banking Supervisors (CEBS).

2. On 15 December 2010 the CEBS submitted the draft Guidelines on AMA Changes for public consultation. The consultation period ended on 15 March 2011. Five responses were received[3]. In addition, a public hearing was held on 23 February 2011 at the EBA's premises in London, to allow interested parties to share their views with the EBA.[4]

3. On 27 May 2011 the draft Guidelines on changes of the Advanced Measurement Approached (AMA) were presented to the EBA's Banking Stakeholder Group (BSG). Although the Guidelines had already been consulted with the public by CEBS, the EBA decided to offer also to the BSG the opportunity to provide an opinion on the (then in draft form) Guidelines in the context of article 16 of the EBA regulation, if the BSG deemed it necessary.

4. The BSG provided broad comments and suggestions, to be considered by the EBA in the future; thus it suggested that the Guidelines could be part of a broader model change guideline encompassing also credit risk and market risk models. Further topics, such as the coherence of operational risk and the regular replacement, within firms, of employees, which leads to a loss of knowledge and therefore may increase the operational risk exposure within the institution, were also discussed. Besides these points, though, following the discussion, the BSG had no concerns in relation to these Guidelines on AMA extensions and changes.

5. These Guidelines only affect a limited number of EU banking groups and institutions using an Advanced Measurement Approach (AMA) for the calculation of the capital requirements for operational risk. Overall, the participants in the public hearing and respondents were supportive of the proposed Guidelines on AMA Changes and appreciated the clarification of the communication requirements and supervisory processes, as this would facilitate the further development of AMA models across the industry.

6. The main issue raised was that it would be beneficial to clarify the categories of major and significant changes. It was also suggested that a definition of more concrete quantitative criteria for distinguishing between major changes and significant changes would be useful. These suggestions were partly taken into account in the finalisation of these Guidelines. However, a common quantitative threshold was not set. The implementation of this aspect will be reviewed by the EBA and taken into account when binding

[3] The public responses to CP 45 have been published on the EBA website together with the consultation paper.

[4] A summary of the results of the public hearing has been published on the EBA website together with the consultation paper. In some cases, when they led to amendments in the Guidelines, comments from the public hearing have also been included in the feedback statement attached to these Guidelines.

technical standards on the conditions for assessing the materiality of extensions and changes to the AMA will be developed.

7. A detailed account of the comments received and the EBA´s responses to them is provided in the feedback table below. Final minor drafting changes, in particular in the introduction section of the Guidelines, have been made in order to adapt these Guidelines to the EBA style guide. Those amendments do not change the content of the Guidelines, and have thus not been mentioned in the feedback table.

Feedback table on CP 45: analysis of the responses and suggested amendments

The first column of the feedback table makes reference to the terminology and paragraph numbering used in the original CP 45. The last column refers to the terminology and numbering in the final EBA guidelines.

CP 45	Summary of comments received	The EBA's response	Amendments to the proposals
Guidelines on AMA Changes			
General Comments			
		The Guideline has been restructured to comply with the quality criteria for EBA guidelines. As a result, the numbering of paragraphs has changed and a executive summary has been added. The changes concern only the format and structure of the document however, but not its content.	
	Respondents stressed that it is important to apply the principles in a way that is proportionate to the scale and complexity of businesses.	The Guidelines apply to all institutions using an AMA, irrespective of their size and complexity. However, smaller institutions usually use one of the simpler approaches. The requirements take the	No change

		severity of an AMA change into consideration and define proportionate measures.	
	Respondents pointed out that the consultation paper did not contain any guidelines on validation in a home-host context and on Article 129 of Directive 2006/48/EC.	The Guidelines on Validation contain guidelines on validation and on home-host procedures. It is not intended to duplicate existing guidelines. Those Guidelines are published on the EBA website.	No change
1. Introduction			
	It was suggested that the introduction clarify that changes to methods could result in AMA changes of differing severity.	The comment has been accommodated.	Background Para. 9 amended
4	Respondents suggested the following change: 'If requests to extend or significantly change the AMA are submitted by an EU parent credit institution or jointly by the subsidiaries of an EU parent financial holding company, or by EU subsidiaries of a non-EU parent credit institution or financial holding company, the competent authorities will follow the procedures envisaged by Article 129 Paragraph 2 of Directive 2006/48/EC.'	The Guidelines refer to Article 105(3) of Directive 2006/48/EC, which is correctly quoted. In cases where multiple subsidiaries exist in the EU, one would be considered as the parent institution. In a global context, home-host procedures based on a memorandum of understanding may additionally apply.	No change
2. AMA Change Policy (ACP)			
16	Respondents asked for clarification on which function would conduct internal reviews and	The review will ensure that the AMA change policy reflects possible changes appropriately. Who	Article 3(4)

	saw that the task could either be performed in the internal audit or internal validation function.	conduct a review is of lesser importance, as long as the objective is achieved. This review is independent of internal audits performed in this area.	amended
17	Respondents asked for clarification on whether a group-wide AMA change policy would be sufficient or whether subsidiaries were required to have individual AMA change policies. In the latter case, the question arises as to whether subsidiaries rolling out an AMA might have to provide that policy, possibly even before their parent groups have developed such a policy. In addition, clarification was requested regarding AMA changes in a situation where an AMA EU subsidiary has a non-EU parent institution. In this context respondents also required clarification about the implementation date and when such a policy needed to be in place.	In an AMA group it would be sufficient to develop one, central, group AMA change policy. However, subsidiaries should have knowledge of the policy. Requests to extend or significantly change an AMA should be submitted by an EU parent credit institution or, jointly, by the subsidiaries of an EU parent financial holding company. The competent authorities will follow the procedures envisaged by Article 129(2) of Directive 2006/48/EC. The Capital Requirements Directive (CRD) applies to institutions within the EU. If an EU subsidiary of a non-EU parent intends to use an AMA, the institution (i.e., an EU-institution) or EU parent institution (i.e., the EU subsidiary or another EU subsidiary which is considered as the parent institution) will need to gain permission from the competent authorities. With respect to extensions and changes, the Guideline on AMA Changes will be applied accordingly to the AMA used for calculating the capital requirement for operational risk. The implementation date applies to the competent authorities. AMA institutions will be informed by the competent authorities. - Granting 6 months for	Background Paragraph 8 and Article 5(1) amended

		the development of a model change policy is considered appropriate.	
3. Supervisory procedures for AMA extensions and changes			
Chapter 3.1. and 3.2.	Respondents suggested setting a deadline for the responses of the competent authorities to the different categories of change and proposed that changes should be automatically considered as approved after the expiry of that deadline.	Explicit approval is required for an AMA. The same applies to extensions and significant changes. As the severity of a change may be adjusted by the competent authorities, the suggested approach cannot be applied to any change.	No change
21	Respondents suggested that the flow of information be specified, in particular in a home/host context. Foreign subsidiaries should communicate changes via their parent companies.	Communication between the home/host competent authorities is dealt with in the Guidelines on Validation. The institution or, if the AMA is used on a unified basis (Article 105 of Directive 2006/48/EC), the EU parent credit institution or EU parent financial holding company, is responsible for communication with the competent authority. The scope of the Guidelines has been clarified.	Background Paragraph 8 and Article 5(1) amended
21	Respondents suggested stressing that the approval process was coordinated by the consolidating supervisor. The consolidating supervisor should align all supervisors in a College of Supervisors, including a key role for the EBA.	Communication between the home/host competent authorities is dealt with in Article 129 of Directive 2006/48/EC and the CEBS Guidelines on Validation. The responsibility for organising and coordinating the approval process for extensions and significant changes to an AMA lies with the consolidating supervisor. This has been clarified.	Background Paragraph 8 amended and explanatory note to Article 5(1) added

23	Respondents suggested that institutions should mandatorily provide an independent review as per the 'extensions' and 'significant' categories for major changes as well. The review should be proportionate to the severity of a change. Also, with respect to major changes, the review should be led by the consolidating supervisor, with further reporting in the College of Supervisors, including a key role for the EBA.	If major changes are reclassified into a more severe category, the respective documentation requirements will apply. Institutions are required to perform regular reviews of their AMAs, thus an additional mandatory review before the implementation of a major change was considered to be too burdensome.	No change
27	Respondents asked for confirmation, by stating as an example, that notification of minor changes could be carried out by inclusion in the annual AMA assessment.	The Guidelines set out a minimum requirement for the reporting of minor changes to the competent authorities. Institutions need to comply with the national implementation of this Guideline, which may comprise a higher reporting frequency.	No change
Annex			
General Comment	The Annex should specify that it relates primarily to material changes to AMA policy/methodology. The term 'methodology' better reflects the underlying principles of internal loss data collection; procedures normally relate to internal activities that may change frequently without impacting the principles of loss data collection. Notifying the regulator of procedural changes would probably cause a significant administrative burden, while	Institutions need to comply with all requirements of Annex X, Part 3 of Directive 2006/48/EC. This contains the loss data collection. As a change of process might also impact on the quality of data or, in other cases, the use of an AMA within risk management procedures (e.g. the use test) such changes cannot be excluded from the AMA change Guidelines.	No change

	providing little insight into bank policies.		
General comment	The Annex contains examples which could be further clarified. E.g., 'Changes that cause a relevant alteration to the operational risk capital charge'. One Respondent suggested 'that 'relevant' could be clarified by setting a specific threshold of 5 %. Other respondents asked for guidance on what a material alteration of the capital charge was. Participants in the public hearing suggested developing more concrete quantitative criteria to distinguish between major changes and significant changes. This could be done via percentages of capital changes or by comparing the statistical uncertainty of a model before and after a change.	To avoid smaller changes adding up to a significant change without supervisory involvement, the most recent approved model would need to be maintained. A more specific technical instruction on how to calculate those thresholds would be needed. Both would create an additional burden for institutions and supervisors. The implementation of this aspect will be reviewed by the EBA and taken into account when binding technical standards on the conditions for assessing the materiality of extensions and changes to the AMA will be developed.	No change
General comment	Respondents stated that the definitions in the Annex were contradictory to some extent, as named examples should be treated as stated in the Guideline, but changes which would alter capital relevantly needed to be assigned to the major changes category.	In some cases the categorisation of a change might be controversial, as the actual quantitative impact and the categorisation based on the kind of change may be different. In such cases institutions should choose the more severe category.	Article 4(4) added.

General Comment	One respondent was of the opinion that the categorisation of the types of AMA changes was overly complex and suggested that institutions should define their policies.	The Guidelines contain four categories, with as well a reasoned differentiation of the communication, notification and approval requirements. The procedures themselves only consist of three categories, as the procedures for AMA extensions and changes are identical, while the kind of change is different. With an AMA extension, a new and not yet approved element is implemented or the scope of a partial use is extended beyond a previously agreed roll-out plan. On the other hand, AMA changes amend already approved AMA elements. The Guidelines differentiate between significant changes which need prior approval and major and minor changes, neither of which requires a formal approval process. However, differentiation is needed to avoid situations where a lot of minor changes are only notified after one year. Those changes could, considered together, be significant. Therefore the category major changes was introduced, to ensure timely notification and assessment of changes, enabling the competent authorities to decide whether prior approval would be needed. This closer cooperation between institutions and competent authorities will help to create a better understanding of the scope of changes which are acceptable without prior approval or which require prior approval. This improved understanding is needed in order to develop criteria for the assessment of the severity	No change

		of model changes, which will lead to a more stringent categorisation of AMA changes. The Guidelines require institutions to define their model change policies in line with the guidance provided. To ensure fair treatment and a level playing field, common procedures need to be established.	
A and B	It was suggested that the categories in the Annex be aligned more with the chapters of the Guidelines by merging Sections A and B.	As the document has been restructured, the categories have been kept separated in the Annex.	No change
Annex, A, 1st bullet	It was suggested that the significance of the extensions to the scope of the AMA framework (and the distinction between EU and non-EU extensions) being taken into consideration.	Within the calculation of the capital requirement for operational risk, institutions need to take into account mergers and acquisitions and changes of internal business structures. This may also impact on the scope of an AMA. If such extensions or changes only have an insignificant influence on risk profiles, institutions may apply such changes without a prior approval process and include those changes in the major and/or minor changes category. A footnote has been added.	Annex, A, 2 a amended
Annex, B, 4th bullet	Respondents asked to clarify which changes were considered to be fundamental, e.g., those which would impinge on the independence of the operational risk management function.	The comment has been accommodated and examples added.	Annex, B, d amended

Annex, C, 2nd bullet		The example has been clarified.	Annex, C, b amended
Annex, C, 3rd bullet	It was suggested that the word 'fundamental' be changed, as this was also used within the examples under B, 'significant changes'.	The wording was changed to 'relevant'.	Annex, C, c amended
Annex, C, 4th bullet	It was suggested that the example regarding validation be clarified. Validation is a broad concept. In this bullet point the changes should refer to changes within the logic and methods used.	The comment has been accommodated.	Annex, C, d amended`
Annex, D		The category 'Minor Changes' have been added to the Annex, to provide definitions for all 4 categories.	Annex, D added

V. Form for Confirmation, on the part of Competent Authorities, of Compliance with these Guidelines

Confirmation of compliance with guidelines and recommendations

Date:

Member/EFTA State:

Competent authority:

Guidelines/recommendations:

Name:

Position:

Telephone number:

Email address:

I am authorised to confirm compliance with the guidelines and 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 **reasons**[5]:

Details of the partial compliance and reasoning [TBC]:

Please send this notification to compliance@eba.europa.eu.[6]

[5] 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 areas.

[6] 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.