

**Recommendations amending Recommendations EBA/REC/2015/01 on the
equivalence of confidentiality regimes
(EBA/REC/2018/01)**

These European Banking Authority (EBA) Recommendations, issued on the basis of Article 16 of Regulation (EU) No 1093/2010, are addressed to competent authorities as referred to in Article 4 (2) of Regulation (EU) No 1093/2010.

The EBA published on 2 April 2015 the Recommendations on the equivalence of confidentiality regimes (EBA/REC/2015/01), whose purpose is to harmonize the application of Article 116 (6) of the Capital Requirements Directive (CRD) on the composition of supervisory colleges, and in particular the participation of supervisory authorities from third countries. These Recommendations have been modified in several occasions. Up to now, authorities corresponding to the following countries have been recognized as equivalent: Bosnia Herzegovina, Brazil, Canada, China, Macedonia, Mexico, Montenegro, Serbia, Singapore, Switzerland, Turkey and the USA (EBA/REC/2015/01), Albania (EBA/REC/2015/02) and Australia, Hong Kong, Japan, as well as the "Central Bank" of the territory of Kosovo (EBA/REC/2017/01).

With the exception of the "Central Bank" of the territory of Kosovo, all the aforementioned Recommendations have been adopted successively by the Executive Commission of the Banco de España.

The EBA/REC/2015/01 have been modified again on 20 June 2018 with the publication of the EBA/REC/2018/01, including as equivalent the following authorities: Guernsey Financial Services Commission (Bailiwick of Guernsey), Superintendence of the Financial Services of the Central Bank of Uruguay (Oriental Republic of Uruguay) and the Bank of Korea (Republic of Korea). The EBA published the Spanish version of them on 7 August 2018.

The Executive Commission of the Banco de España, in its role of competent authority for the direct supervision of the less significant institutions, adopted these Recommendations as their own on 26 October 2018.

07/08/2018
EBA/REC/2018/01

Recommendations amending Recommendations EBA/REC/2015/01

on the equivalence of confidentiality
regimes

1. Compliance and reporting obligations

Status of these recommendations

1. This document contains recommendations issued pursuant to Article 16 of Regulation (EU) No 1093/2010¹. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the recommendations.
2. Recommendations set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom recommendations apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where recommendations are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these recommendations, or otherwise with reasons for non-compliance, by 08/10/2018. 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 available on the EBA website to compliance@eba.europa.eu with the reference 'EBA/REC/2018/01'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

2. Addressees

5. These recommendations are addressed to competent authorities as defined in of Article 4(2) of Regulation (EU) No 1093/2010.

3. Implementation

Date of application

6. These recommendations apply from dd.XX.XXX.



4. Amendments

7. Recommendations EBA/REC/2015/01 on the equivalence of confidentiality regimes are amended as follows:

The following rows are added to the Annex “Table of authorities assessed and equivalence assessment performed”

AUTHORITY ASSESSED	<u>PRINCIPLE 1: NOTION OF CONFIDENTIAL INFORMATION</u>	<u>PRINCIPLE 2: PROFESSIONAL SECREC REQUIREMENTS</u>	<u>PRINCIPLE 3: RESTRICTIONS ON THE USE OF CONFIDENTIAL INFORMATION</u>	<u>PRINCIPLE 4: RESTRICTIONS ON FURTHER DISCLOSURE OF CONFIDENTIAL INFORMATION</u>	<u>ADDITIONAL INFORMATION FOR CONSIDERATION: BREACH OF PROFESSIONAL SECREC AND OTHER REQUIREMENTS RELATED TO CONFIDENTIAL INFORMATION DISCLOSURE</u>	<u>OVERALL ASSESSMENT</u>
Bailiwick of Guernsey 1) Guernsey Financial Services Commission	Art. 21 of the Financial Services Commission (Bailiwick of Guernsey) Law Article 43 of the Banking Supervision (Bailiwick of Guernsey) Law	Article 21 of the Financial Services Commission (Bailiwick of Guernsey) Law Article 43 of the Banking Supervision (Bailiwick of Guernsey) Law Article 34A of the Protection of Investors	Section 2(2) and 2(3) of the Financial Services Commission (Bailiwick of Guernsey) Law Article 34B of the Protection of investors (Bailiwick of Guernsey) Law Article 80 of the Insurance Business	Section 21 of the Financial Services Commission (Bailiwick of Guernsey) Law Articles 44 and 45 of the Banking Supervision (Bailiwick of Guernsey) Law Articles 34B and 34C if the Protection of	Section 21 of the Financial Services Commission (Bailiwick of Guernsey) Law Article 43 of the Banking Supervision (Bailiwick of Guernsey) Law	Equivalent



https://www.gfsc.gg/	<p>Article 34A of the Protection of Investors (Bailiwick of Guernsey) Law</p> <p>Article 79 of the Insurance Business (Bailiwick of Guernsey) Law</p> <p>Article 56 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law</p> <p>Article 43 of the Regulation of Fiduciaries, Administration businesses and Company Directors etc. (Bailiwick of Guernsey) Law</p>	<p>(Bailiwick of Guernsey) Law</p> <p>Article 79 of the Insurance Business (Bailiwick of Guernsey) Law</p> <p>Article 56 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law</p> <p>Article 43 of the Regulation of Fiduciaries, Administration businesses and Company Directors etc. (Bailiwick of Guernsey) Law</p>	<p>(Bailiwick of Guernsey) Law</p> <p>Article 57 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law</p> <p>Article 44 of the Regulation of Fiduciaries, Administration businesses and Company Directors etc. (Bailiwick of Guernsey) Law</p>	<p>Investors (Bailiwick of Guernsey) Law</p> <p>Articles 80, 84, 81A of the Insurance Business (Bailiwick of Guernsey) Law</p> <p>Articles 57, 58, 58A of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law</p> <p>Articles 44 and 45 of the Regulation of Fiduciaries, Administration businesses and Company Directors etc. (Bailiwick of Guernsey) Law</p> <p>Paragraph 2.7 of the Instrument of Delegation</p>	<p>Article 34A of the Protection of Investors (Bailiwick of Guernsey) Law</p> <p>Article 79 of the Insurance Business (Bailiwick of Guernsey) Law</p> <p>Article 56 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law</p> <p>Article 43 of the Regulation of Fiduciaries, Administration businesses and Company Directors etc. (Bailiwick of Guernsey) Law</p>	
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Oriental Republic of Uruguay 1) Superintendence of the Financial Services of the Central Bank of Uruguay http://www.bcu.gub.uy/ingles/Paginas/Financial-Institutions.aspx	Articles 8, 9, 10, 11 of the Law 18.381 Items 1, 2 and 3 of the Resolution D-46-2016	Articles 20 and 21 of the Central Bank Uruguay Organic Charter Articles 163 and 302 of the Criminal Code	Articles 34 and 35 of the Central Bank of Uruguay Charter Articles 14 – 27 of the Law 18.401 Articles 5 – 8 of the Law 17.835	Article 190(3) of the Code of Civil Procedure Articles 120 and 197 of the Uruguayan Constitution Articles 20 – 23 of the Law 16.698 Articles 9 – 10 of the Law 13.381 Article 1 of the Board of Directors Regulation	Article 21 of the Central Bank of Uruguay Charter Articles 163 and 302 of the Criminal Code	Equivalent
Republic of Korea 1) Bank of Korea http://www.bok.or.kr/eng/engMain.action	Article 42 of the Bank of Korea Act Article 9 of the Official Information and Disclosure Act Article 31, 33 of the Statistics Act	Article 42 of the Bank of Korea Act Article 34 of the Statistics Act Article 4 of the Act on Real Name Financial Transactions Article 127 of the Criminal Act Article 20 of the	Articles 1, 28, 42, 56-59, 64-65, 68-69, 81 of the Bank of Korea Act	Article 94 of the Bank of Korea Act Article 20 of the Foreign Exchange Transactions Act Articles 303, 315 and 3017 of the Civil Procedure Act	Article 104 of the Bank of Korea Act Article 127 of the Criminal Act Article 4 and 6 of the Act on Real name Financial Transactions and Guarantee of Secrecy	Equivalent



	<p>Article 4(1) of the Act on Real Name Financial Transactions</p> <p>Articles 313 and 314 of the Debtor Rehabilitation and Bankruptcy Act</p>	<p>Certified Public Accountant Act</p> <p>Article 26 of the Attorney-at-law Act</p>		<p>Articles 106 – 109 and 111 of the Criminal Procedure Act</p> <p>Article 4 of the Act on Real Name Financial Transactions</p> <p>Article 11, 21 of the Official Information and Disclosure Act</p> <p>Article 4 of the Regulation on exchange of information according to Article 94 of the Bank of Korea Act</p>		
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