

Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (Text with EEA relevance)

TITLE VII

PRUDENTIAL SUPERVISION

CHAPTER 2

Review Processes

Section II

Arrangements, processes and mechanisms of institutions

Sub-Section 2

Technical criteria concerning the organisation and treatment of risks

Article 78

Supervisory benchmarking of internal approaches for calculating own funds requirements

1 Competent authorities shall ensure that institutions permitted to use internal approaches for the calculation of risk weighted exposure amounts or own fund requirements except for operational risk report the results of the calculations of their internal approaches for their exposures or positions that are included in the benchmark portfolios. Institutions shall submit the results of their calculations, together with an explanation of the methodologies used to produce them, to the competent authorities at an appropriate frequency, and at least annually.

2 Competent authorities shall ensure that institutions submit the results of the calculations referred to in paragraph 1 in accordance with the template developed by EBA in accordance with paragraph 8 to the competent authorities and to EBA. Where competent authorities choose to develop specific portfolios, they shall do so in consultation with EBA and ensure that institutions report the results of the calculations separately from the results of the calculations for EBA portfolios.

3 Competent authorities shall, on the basis of the information submitted by institutions in accordance with paragraph 1, monitor the range of risk weighted exposure amounts or own funds requirements, as applicable, except for operational risk, for the exposures or transactions in the benchmark portfolio resulting from the internal approaches of those institutions. At least annually, competent authorities shall make an assessment of the quality of those approaches paying particular attention to:

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- a those approaches that exhibit significant differences in own fund requirements for the same exposure;
- b approaches where there is particularly high or low diversity, and also where there is a significant and systematic under-estimation of own funds requirements.

EBA shall produce a report to assist the competent authorities in the assessment of the quality of the internal approaches based on the information referred to in paragraph 2.

4 Where particular institutions diverge significantly from the majority of their peers or where there is little commonality in approach leading to a wide variance of results, competent authorities shall investigate the reasons therefor and, if it can be clearly identified that an institution's approach leads to an underestimation of own funds requirements which is not attributable to differences in the underlying risks of the exposures or positions, shall take corrective action.

5 The competent authorities shall ensure that their decisions on the appropriateness of corrective actions as referred to in paragraph 4 comply with the principle that such actions must maintain the objectives of an internal approach and therefore do not:

- a lead to standardisation or preferred methods;
- b create wrong incentives; or
- c cause herd behaviour.

6 EBA may issue guidelines and recommendations in accordance with Article 16 of Regulation (EU) No 1093/2010 where it considers them necessary on the basis of the information and assessments referred to in paragraphs 2 and 3 of this Article in order to improve supervisory practices or practices of institutions with regard to internal approaches.

7 EBA shall develop draft regulatory technical standards to specify:

- a the procedures for sharing assessments made in accordance with paragraph 3 between the competent authorities and with EBA;
- b the standards for the assessment made by competent authorities referred to in paragraph 3.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

8 EBA shall develop draft implementing technical standards to specify:

- a the template, the definitions and the IT-solutions to be applied in the Union for the reporting referred to in paragraph 2;
- b the benchmark portfolio or portfolios referred to in paragraph 1.

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2014.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

9 The Commission shall, by 1 April 2015 and after consulting EBA, submit a report to the European Parliament and to the Council on the functioning of the benchmarking of internal

models including the scope of the model. Where appropriate, the report shall be followed by a legislative proposal.