

Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (codification) (Text with EEA relevance)

TITLE I

**GENERAL PROVISIONS AND THE ESTABLISHMENT AND FUNCTIONING OF LIMITED LIABILITY COMPANIES**

CHAPTER III

*[<sup>F1</sup>Online procedures (formation, registration and filing), disclosure and registers]*

Section 1

**General provisions**

*[<sup>F1</sup>Article 13*

**Scope**

The coordination measures prescribed by this Section and by Section 1A shall apply to the laws, regulations and administrative provisions of the Member States relating to the types of companies listed in Annex II and, where specified, to the types of companies listed in Annexes I and IIA.]

*[<sup>F2</sup>Article 13a*

**Definitions**

For the purposes of this Chapter:

- (1) ‘electronic identification means’ means an electronic identification means as defined in point (2) of Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>(1)</sup>
- (2) ‘electronic identification scheme’ means an electronic identification scheme as defined in point (4) of Article 3 of Regulation (EU) No 910/2014;
- (3) ‘electronic means’ means electronic equipment used for the processing, including digital compression, and the storage of data, and through which information is initially sent and received at its destination; that information being entirely transmitted, conveyed and received in a manner to be determined by Member States;
- (4) ‘formation’ means the whole process of establishing a company in accordance with national law, including the drawing up of the company’s instrument of constitution and all the necessary steps for the entry of the company in the register;

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- (5) ‘registration of a branch’ means a process leading to disclosure of documents and information relating to a branch newly opened in a Member State;
- (6) ‘template’ means a model for the instrument of constitution of a company which is drawn up by Member States in compliance with national law and is used for the online formation of a company in accordance with Article 13g.

#### Textual Amendments

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

### Article 13b

#### Recognition of identification means for the purposes of online procedures

- 1 Member States shall ensure that the following electronic identification means can be used by applicants who are Union citizens in the online procedures referred to in this Chapter:
- a an electronic identification means issued under an electronic identification scheme approved by their own Member State;
  - b an electronic identification means issued in another Member State and recognised for the purpose of cross-border authentication in accordance with Article 6 of Regulation (EU) No 910/2014.
- 2 Member States may refuse to recognise electronic identification means where the assurance levels of those electronic identification means do not comply with the conditions set out in Article 6(1) of Regulation (EU) No 910/2014.
- 3 All identification means recognised by Member States shall be made publicly available.
- 4 Where justified by reason of the public interest in preventing identity misuse or alteration, Member States may, for the purposes of verifying an applicant’s identity, take measures which could require the physical presence of that applicant before any authority or person or body mandated under national law to deal with any aspect of the online procedures referred to in this Chapter, including the drawing up of the instrument of constitution of a company. Member States shall ensure that the physical presence of an applicant may only be required on a case-by-case basis where there are reasons to suspect identity falsification, and that any other steps of the procedure can be completed online.

#### Textual Amendments

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

### Article 13c

#### General provisions on online procedures

1 This Directive shall be without prejudice to national laws that, in accordance with Member States' legal systems and legal traditions, designate any authority or person or body mandated under national law to deal with any aspect of online formation of companies, online registration of branches and online filing of documents and information.

2 This Directive shall also be without prejudice to the procedures and requirements laid down by national law, including those relating to legal procedures for the drawing up of instruments of constitution, provided that online formation of a company, as referred to in Article 13g, and online registration of a branch, as referred to in Article 28a, as well as online filing of documents and information, as referred to in Articles 13j and 28b, is possible.

3 The requirements under applicable national law concerning the authenticity, accuracy, reliability, trustworthiness and the appropriate legal form of documents or information that are submitted shall remain unaffected by this Directive, provided that online formation, as referred to in Article 13g, and online registration of a branch, as referred to in Article 28a, as well as online filing of documents and information, as referred to in Articles 13j and 28b, is possible.

#### Textual Amendments

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

### Article 13d

#### Fees for online procedures

1 Member States shall ensure that the rules on fees applicable to the online procedures referred to in this Chapter are transparent and are applied in a non-discriminatory manner.

2 Any fees for online procedures charged by the registers referred to in Article 16 shall not exceed the recovery of the costs of providing such services.

#### Textual Amendments

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

### Article 13e

#### Payments

Where the completion of a procedure laid down in this Chapter requires a payment, Member States shall ensure that that payment can be made by means of a widely available online payment service that can be used for cross-border payments, that

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permits identification of the person that made the payment and is provided by a financial institution or payment service provider established in a Member State.

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#### **Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

### *Article 13f*

#### **Information requirements**

Member States shall ensure that concise and user-friendly information, provided free of charge and at least in a language broadly understood by the largest possible number of cross-border users, is made available on registration portals or websites that are accessible by means of the Single Digital Gateway to assist in the formation of companies and the registration of branches. The information shall cover at least the following:

- (a) rules on the formation of companies, including online procedures referred to in Articles 13g and 13j, and requirements relating to the use of templates and to other formation documents, identification of persons, the use of languages and to applicable fees;
- (b) rules on the registration of branches, including online procedures referred to in Articles 28a and 28b, and requirements relating to registration documents, identification of persons and the use of languages;
- (c) an outline of the applicable rules on becoming a member of the administrative body, the management body or the supervisory body of a company, including of the rules on disqualification of directors, and on the authorities or bodies responsible for keeping information about disqualified directors;
- (d) an outline of the powers and responsibilities of the administrative body, the management body and the supervisory body of a company, including the authority to represent a company in dealings with third parties.]

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#### **Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

## *f<sup>2</sup>Section 1A*

### **Online formation, online filing and disclosure**

#### *Article 13g*

#### **Online formation of companies**

1 Member States shall ensure that the online formation of companies may be carried out fully online without the necessity for the applicants to appear in person before any authority or person or body mandated under national law to deal with any aspect of the online formation of companies, including drawing up the instrument of constitution of a company, subject to the provisions laid down in Article 13b(4) and paragraph (8) of this Article.

However, Member States may decide not to provide for online formation procedures for types of companies other than those listed in Annex IIA.

2 Member States shall lay down detailed rules for the online formation of companies, including rules on the use of templates as referred to in Article 13h, and on the documents and information required for the formation of a company. As part of those rules, Member States shall ensure that such online formation may be carried out by submitting documents or information in electronic form, including electronic copies of the documents and information referred to in Article 16a(4).

3 The rules referred to in paragraph 2 shall at least provide for the following:

- a the procedures to ensure that the applicants have the necessary legal capacity and have authority to represent the company;
- b the means to verify the identity of the applicants in accordance with Article 13b;
- c the requirements for the applicants to use trust services referred to in Regulation (EU) No 910/2014;
- d the procedures to verify the legality of the object of the company, insofar as such checks are provided for under national law;
- e the procedures to verify the legality of the name of the company, insofar as such checks are provided for under national law;
- f the procedures to verify the appointment of directors.

4 The rules referred to in paragraph 2 may, in particular, also provide for the following:

- a the procedures to ensure the legality of the company instruments of constitution, including verifying the correct use of templates;
- b the consequences of the disqualification of a director by the competent authority in any Member State;
- c the role of a notary or any other person or body mandated under national law to deal with any aspect of the online formation of a company;
- d the exclusion of online formation in cases where the share capital of the company is paid by way of contributions in kind.

5 Member States shall not make the online formation of a company conditional on obtaining a licence or authorisation before the company is registered, unless such a condition is indispensable for the proper oversight laid down in national law of certain activities.

6 Member States shall ensure that where the payment of share capital is required as part of the procedure to form a company, such payment can be made online, in accordance with

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Article 13e, to a bank account of a bank operating in the Union. In addition, Member States shall ensure that proof of such payments can also be provided online.

7 Member States shall ensure that the online formation is completed within five working days where a company is formed exclusively by natural persons who use the templates referred to in Article 13h, or within ten working days in other cases, from the later of the following:

- a the date of the completion of all formalities required for the online formation, including the receipt of all documents and information, which comply with national law, by an authority or a person or body mandated under national law to deal with any aspect of the formation of a company;
- b the date of the payment of a registration fee, the payment in cash for share capital, or the payment for the share capital by way of a contribution in kind, as provided for under national law.

Where it is not possible to complete the procedure within the deadlines referred to in this paragraph, Member States shall ensure that the applicant is notified of the reasons for the delay.

8 Where justified by reason of the public interest in ensuring compliance with the rules on legal capacity and on the authority of applicants to represent a company, any authority or person or body mandated under national law to deal with any aspect of the online formation of a company, including the drawing up of the instrument of constitution, may request the physical presence of the applicant. Member States shall ensure that, in such cases, the physical presence of an applicant may only be required on a case-by-case basis where there are reasons to suspect non-compliance with the rules referred to in point (a) of paragraph 3. Member States shall ensure that any other steps of the procedure can nonetheless be completed online.

#### *Article 13h*

#### **Templates for online formation of companies**

1 Member States shall make templates available, for the types of companies listed in Annex IIA, on registration portals or websites that are accessible by means of the Single Digital Gateway. Member States may also make templates available online for the formation of other types of companies.

2 Member States shall ensure that the templates, referred to in paragraph 1 of this Article, may be used by applicants as part of the online formation procedure referred to in Article 13g. Where those templates are used by applicants in compliance with the rules referred to in point (a) of Article 13g(4), the requirement to have the company instruments of constitution drawn up and certified in due legal form where preventive administrative or judicial control is not provided for, as laid down in Article 10, shall be deemed to have been fulfilled.

This Directive shall not affect any requirement under national law to have the drawing up of instruments of constitution done in due legal form, as long as the online formation referred to in Article 13g is possible.

3 Member States shall at least make the templates available in an official Union language broadly understood by the largest possible number of cross-border users. The availability of templates in languages other than the official language or languages of the Member State concerned shall be for information purposes only, unless that Member State decides that it is also possible to form a company with templates in such other languages.

4 The content of the templates shall be governed by national law.

### Article 13i

#### **Disqualified directors**

1 Member States shall ensure that they have rules on disqualification of directors. Those rules shall include providing for the possibility to take into account any disqualification that is in force, or information relevant for disqualification, in another Member State. For the purpose of this Article, directors shall at least include the persons referred to in point (i) of Article 14(d).

2 Member States may require that persons applying to become directors declare whether they are aware of any circumstances which could lead to a disqualification in the Member State concerned.

Member States may refuse the appointment of a person as a director of a company where that person is currently disqualified from acting as a director in another Member State.

3 Member States shall ensure that they are able to reply to a request from another Member State for information relevant for the disqualification of directors under the law of the Member State replying to the request.

4 In order to reply to a request referred to in paragraph 3 of this Article, Member States shall at least make the necessary arrangements to ensure that they are able to provide without delay information on whether a given person is disqualified or is recorded in any of their registers that contain information relevant for disqualification of directors, by means of the system referred to in Article 22. Member States may also exchange further information, such as on the period and grounds of disqualification. Such exchange shall be governed by national law.

5 The Commission shall lay down detailed arrangements and technical details for the exchange of the information referred to in paragraph 4 of this Article, by means of the implementing acts referred to in Article 24.

6 Paragraphs 1 to 5 of this Article shall apply *mutatis mutandis* where a company files information concerning the appointment of a new director in the register referred to in Article 16.

7 The personal data of persons referred to in this Article shall be processed in accordance with Regulation (EU) 2016/679 and national law, in order to enable the authority or the person or body mandated under national law to assess necessary information relating to the disqualification of a person as a director, with a view to preventing fraudulent or other abusive behaviour and ensuring that all persons interacting with companies or branches are protected.

Member States shall ensure that the registers referred to in Article 16, authorities or persons or bodies mandated under national law to deal with any aspect of online procedures do not store personal data transmitted for the purposes of this Article any longer than is necessary, and in any event no longer than any personal data related to the formation of a company, the registration of a branch or a filing by a company or branch are stored.

### Article 13j

#### **Online filing of company documents and information**

1 Member States shall ensure that documents and information referred to in Article 14, including any modification thereof, can be filed online with the register within the time limit

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provided by the laws of the Member State where the company is registered. Member States shall ensure that such filing can be completed online in its entirety without the necessity for an applicant to appear in person before any authority or person or body mandated under national law to deal with the online filing, subject to the provisions laid down in Article 13b(4) and, where applicable, Article 13g(8).

2 Member States shall ensure that the origin and integrity of the documents filed online may be verified electronically.

3 Member States may require that certain companies or that all companies file certain or all of the documents and information referred to in paragraph 1 online.

4 Article 13g (2) to (5) shall apply *mutatis mutandis* to online filing of documents and information.

5 Member States may continue to allow forms of filing other than those referred to in paragraph 1, including by electronic or by paper means, by companies, by notaries or by any other persons or bodies mandated under national law to deal with such forms of filing.]

#### Article 14

#### **Documents and particulars to be disclosed by companies**

Member States shall take the measures required to ensure compulsory disclosure by companies of at least the following documents and particulars:

- (a) the instrument of constitution, and the statutes if they are contained in a separate instrument;
- (b) any amendments to the instruments referred to in point (a), including any extension of the duration of the company;
- (c) after every amendment of the instrument of constitution or of the statutes, the complete text of the instrument or statutes as amended to date;
- (d) the appointment, termination of office and particulars of the persons who either as a body constituted pursuant to law or as members of any such body:
  - (i) are authorised to represent the company in dealings with third parties and in legal proceedings; it shall be apparent from the disclosure whether the persons authorised to represent the company may do so alone or are required to act jointly;
  - (ii) take part in the administration, supervision or control of the company;
- (e) at least once a year, the amount of the capital subscribed, where the instrument of constitution or the statutes mention an authorised capital, unless any increase in the capital subscribed necessitates an amendment of the statutes;
- (f) the accounting documents for each financial year which are required to be published in accordance with Council Directives 86/635/EEC<sup>(2)</sup> and 91/674/EEC<sup>(3)</sup> and Directive 2013/34/EU of the European Parliament and of the Council<sup>(4)</sup>;
- (g) any change of the registered office of the company;
- (h) the winding-up of the company;



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- (i) any declaration of nullity of the company by the courts;
- (j) the appointment of liquidators, particulars concerning them, and their respective powers, unless such powers are expressly and exclusively derived from law or from the statutes of the company;
- (k) any termination of a liquidation and, in Member States where striking off the register entails legal consequences, the fact of any such striking off.

### *Article 15*

#### **Changes in documents and particulars**

1 Member States shall take the measures required to ensure that any changes in the documents and particulars referred to in Article 14 are entered in the competent register referred to in the first subparagraph of Article 16(1) and are disclosed, in accordance with Article 16(3) and (5), normally within 21 days of receipt of the complete documentation regarding those changes including, if applicable, the legality check as required under national law for entry in the file.

2 Paragraph 1 shall not apply to the accounting documents referred to in Article 14(f).

### *[<sup>F1</sup>Article 16*

#### **Disclosure in the register**

1 In each Member State, a file shall be opened in a central, commercial or companies register ('the register'), for each of the companies registered therein.

Member States shall ensure that companies have a European unique identifier ('EUID'), referred to in point (8) of the Annex to Commission Implementing Regulation (EU) 2015/884CCC<sup>(5)</sup>, allowing them to be unequivocally identified in communications between registers through the system of interconnection of registers established in accordance with Article 22 ('the system of interconnection of registers'). That unique identifier shall comprise, at least, elements making it possible to identify the Member State of the register, the domestic register of origin and the company number in that register and, where appropriate, features to avoid identification errors.

2 All documents and information that are required to be disclosed pursuant to Article 14 shall be kept in the file referred to in paragraph 1 of this Article, or entered directly in the register, and the subject matter of the entries in the register shall be recorded in the file.

All documents and information referred to in Article 14, irrespective of the means by which they are filed, shall be kept in the file in the register or entered directly into it in electronic form. Member States shall ensure that all documents and information that are filed by paper means are converted by the register to electronic form as quickly as possible.

Member States shall ensure that documents and information referred to in Article 14 that were filed by paper means before 31 December 2006 are converted into electronic form by the register upon receipt of an application for disclosure by electronic means.

3 Member States shall ensure that the disclosure of the documents and information referred to in Article 14 is effected by making them publicly available in the register. In addition,

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Member States may also require that some or all of those documents and information are published in a national gazette designated for that purpose, or by equally effective means. Those means shall entail at least the use of a system whereby the documents or information published can be accessed in chronological order through a central electronic platform. In such cases, the register shall ensure that those documents and information are sent electronically by the register to the national gazette or to a central electronic platform.

4 Member States shall take the necessary measures to avoid any discrepancy between what is in the register and in the file.

Member States that require the publication of documents and information in a national gazette or on a central electronic platform shall take the necessary measures to avoid any discrepancy between what is disclosed in accordance with paragraph 3 and what is published in the gazette or on the platform.

In cases of any discrepancies under this Article, the documents and information made available in the register shall prevail.

5 The documents and information referred to in Article 14 may be relied on by the company as against third parties only after they have been disclosed in accordance with paragraph 3 of this Article, unless the company proves that the third parties had knowledge thereof.

However, with regard to transactions taking place before the sixteenth day following the disclosure, the documents and information shall not be relied on as against third parties who prove that it was impossible for them to have had knowledge thereof.

Third parties may always rely on any documents and information in respect of which the disclosure formalities have not yet been completed, save where non-disclosure causes such documents or information to have no effect.

6 Member States shall ensure that all documents and information submitted as part of the formation of a company, the registration of a branch, or a filing by a company or a branch, is stored by the registers in a machine-readable and searchable format or as structured data.}]

### *[<sup>F2</sup>Article 16a*

#### **Access to disclosed information**

1 Member States shall ensure that copies of all or any part of the documents and information, referred to in Article 14, may be obtained from the register on application, and that such an application may be submitted to the register by either paper or electronic means.

However, Member States may decide that certain types or parts of the documents and information, which were filed by paper means on or before 31 December 2006, cannot be obtained by electronic means where a specified period has elapsed between the date of filing and the date of the application. Such a specified period shall not be less than 10 years.

2 The price of obtaining a copy of all or any part of the documents and information referred to in Article 14, whether by paper or electronic means, shall not exceed the administrative costs thereof, including the costs of development and maintenance of registers.

3 Electronic and paper copies supplied to an applicant shall be certified as ‘true copies’ unless the applicant dispenses with such certification.

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4 Member States shall ensure that electronic copies and extracts of the documents and information provided by the register have been authenticated by means of trust services referred to in Regulation (EU) No 910/2014, in order to guarantee that the electronic copies or extracts have been provided by the register and that their content is a true copy of the document held by the register or that it is consistent with the information contained therein.]

#### Article 17

##### **Up-to-date information on national law with regard to the rights of third parties**

[<sup>F1</sup> Member States shall ensure that up-to-date information is made available explaining the provisions of national law pursuant to which third parties may rely on information and each type of document referred to in Article 14, in accordance with Article 16(3), (4) and (5).]

2 Member States shall provide the information required for publication on the European e-Justice portal ('the portal') in accordance with the portal's rules and technical requirements.

3 The Commission shall publish that information on the portal in all the official languages of the Union.

#### Article 18

##### **Availability of electronic copies of documents and particulars**

[<sup>F1</sup> Electronic copies of the documents and information referred to in Article 14 shall also be made publicly available through the system of interconnection of registers. Member States may also make available documents and information referred to in Article 14 for types of companies other than those listed in Annex II.]

2 Member States shall ensure that the documents and particulars referred to in Article 14 are available through the system of interconnection of registers in a standard message format and accessible by electronic means. Member States shall also ensure that minimum standards for the security of data transmission are respected.

3 The Commission shall provide a search service in all the official languages of the Union in respect of companies registered in the Member States, in order to make available through the portal:

[<sup>F1</sup>a the documents and information referred to in Article 14, including for types of companies other than those listed in Annex II, where such documents are made available by Member States;]

[<sup>F3</sup>aa the documents and information referred to in Articles 86g, 86n, 86p, 123, 127a, 130, 160g, 160n and 160p;]

b the explanatory labels, available in all the official languages of the Union, listing those particulars and the types of those documents.

##### **Textual Amendments**

**F3** Inserted by [Directive \(EU\) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive \(EU\) 2017/1132 as regards cross-border conversions, mergers and divisions \(Text with EEA relevance\).](#)

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## *[<sup>F1</sup>Article 19*

### **Fees chargeable for documents and information**

1 The fees charged for obtaining documents and information referred to in Article 14 through the system of interconnection of registers shall not exceed the administrative costs thereof, including the costs of development and maintenance of registers.

2 Member States shall ensure that at least the following information and documents are available free of charge through the system of interconnection of registers:

- a the name or names and legal form of the company;
- b the registered office of the company and the Member State where it is registered;
- c the registration number of the company and its EUID;
- d details of the company website, where such details are recorded in the national register;
- e the status of the company, such as when it is closed, struck off the register, wound up, dissolved, economically active or inactive as defined in national law and where recorded in the national registers;
- f the object of the company, where it is recorded in the national register;
- g the particulars of any persons who either as a body or as members of any such body are currently authorised by the company to represent it in dealing with third parties and in legal proceedings and information as to whether the persons authorised to represent the company may do so alone or are required to act jointly;
- h information on any branches opened by the company in another Member State including the name, registration number, EUID and the Member State where the branch is registered.

3 The exchange of any information through the system of interconnection of registers shall be free of charge for the registers.

4 Member States may decide that the information referred to in points (d) and (f) is to be made available free of charge only for the authorities of other Member States.]

## *Article 20*

### **Information on the opening and termination of winding-up or insolvency proceedings and on striking-off of a company from the register**

1 The register of a company shall, through the system of interconnection of registers, make available, without delay, the information on the opening and termination of any winding-up or insolvency proceedings of the company and on the striking-off of the company from the register, if this entails legal consequences in the Member State of the register of the company.

2 The register of the branch shall, through the system of interconnection of registers, ensure receipt, without delay, of the information referred to in paragraph 1.

<sup>F43</sup> .....

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#### **Textual Amendments**

- F4** Deleted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

### *Article 21*

#### **Language of disclosure and translation of documents and particulars to be disclosed**

1 Documents and particulars to be disclosed pursuant to Article 14 shall be drawn up and filed in one of the languages permitted by the language rules applicable in the Member State in which the file referred to in Article 16(1) is opened.

2 In addition to the compulsory disclosure referred to in Article 16, Member States shall allow translations of documents and particulars referred to in Article 14 to be disclosed voluntarily in accordance with Article 16 in any official language(s) of the Union.

Member States may prescribe that the translation of such documents and particulars be certified.

Member States shall take the necessary measures to facilitate access by third parties to the translations voluntarily disclosed.

3 In addition to the compulsory disclosure referred to in Article 16, and to the voluntary disclosure provided for under paragraph 2 of this Article, Member States may allow the documents and particulars concerned to be disclosed, in accordance with Article 16, in any other language(s).

Member States may prescribe that the translation of such documents and particulars be certified.

4 In cases of discrepancy between the documents and particulars disclosed in the official languages of the register and the translation voluntarily disclosed, the latter may not be relied upon as against third parties. Third parties may nevertheless rely on the translations voluntarily disclosed, unless the company proves that the third parties had knowledge of the version which was the subject of the compulsory disclosure.

### *Article 22*

#### **System of interconnection of registers**

1 A European central platform ('the platform') shall be established.

2 The system of interconnection of registers shall be composed of:

- the registers of Member States,
- the platform,
- the portal serving as the European electronic access point.

3 Member States shall ensure the interoperability of their registers within the system of interconnection of registers via the platform.

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4 Member States may establish optional access points to the system of interconnection of registers. They shall notify the Commission without undue delay of the establishment of such access points and of any significant changes to their operation.

[<sup>F2</sup>The Commission may also establish optional access points to the system of interconnection of registers. Such access points shall consist of systems developed and operated by the Commission or other Union institutions, bodies, offices or agencies in order to perform their administrative functions or to comply with provisions of Union law. The Commission shall notify the Member States without undue delay of the establishment of such access points and of any significant changes to their operation.]

[<sup>F15</sup> Access to information from the system of interconnection of registers shall be provided through the portal and through the optional access points established by the Member States and by the Commission.]

6 The establishment of the system of interconnection of registers shall not affect existing bilateral agreements concluded between Member States concerning the exchange of information on companies.

### *Article 23*

#### **Development and operation of the platform**

1 The Commission shall decide to develop and/or operate the platform either by its own means or through a third party.

If the Commission decides to develop and/or operate the platform through a third party, the choice of the third party and the enforcement by the Commission of the agreement concluded with that third party shall be done in accordance with Regulation (EU, Euratom) No 966/2012.

2 If the Commission decides to develop the platform through a third party, it shall, by means of implementing acts, establish the technical specifications for the purpose of the public procurement procedure and the duration of the agreement to be concluded with that third party.

3 If the Commission decides to operate the platform through a third party, it shall, by means of implementing acts, adopt detailed rules on the operational management of the platform.

The operational management of the platform shall include, in particular:

- the supervision of the functioning of the platform,
- the security and protection of data distributed and exchanged using the platform,
- the coordination of relations between Member States' registers and the third party.

The supervision of the functioning of the platform shall be carried out by the Commission.

4 The implementing acts referred to in paragraphs 2 and 3 shall be adopted in accordance with the examination procedure referred to in Article 164(2).

## Article 24

### Implementing acts

By means of implementing acts, the Commission shall adopt the following:

- (a) the technical specification defining the methods of communication by electronic means for the purpose of the system of interconnection of registers;
- (b) the technical specification of the communication protocols;
- (c) the technical measures ensuring the minimum information technology security standards for communication and distribution of information within the system of interconnection of registers;
- (d) [<sup>F1</sup>the technical specification defining the methods of exchange of information between the register of the company and the register of the branch as referred to in Articles 20, 28a, 28c, 30a and 34;]
- (e) [<sup>F5</sup>the detailed list of data to be transmitted for the purpose of exchanging information between registers, as referred to in Articles 20, 28a, 28c, 30a and 34;]
- (ea) [<sup>F3</sup>the detailed list of data to be transmitted for the purpose of exchanging information between registers and for the purposes of disclosure, as referred to in Articles 86g, 86n, 86p, 123, 127a, 130, 160g, 160n and 160p;]
- (f) the technical specification defining the structure of the standard message format for the purpose of the exchange of information between the registers, the platform and the portal;
- (g) the technical specification defining the set of the data necessary for the platform to perform its functions as well as the method of storage, use and protection of such data;
- (h) the technical specification defining the structure and use of the unique identifier for communication between registers;
- (i) the specification defining the technical methods of operation of the system of interconnection of registers as regards the distribution and exchange of information, and the specification defining the information technology services, provided by the platform, ensuring the delivery of messages in the relevant language version;
- (j) the harmonised criteria for the search service provided by the portal;
- (k) the payment modalities, taking into account available payment facilities such as online payment;
- (l) the details of the explanatory labels listing the particulars and the types of documents referred to in Article 14;
- (m) the technical conditions of availability of services provided by the system of interconnection of registers;
- (n) [<sup>F1</sup>the procedure and technical requirements for the connection of the optional access points to the platform as referred to in Article 22;]
- (o) [<sup>F2</sup>the detailed arrangements for and technical details of the exchange between registers of the information referred to in Article 13i.]

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Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 164(2).

[<sup>F2</sup>The Commission shall adopt the implementing acts pursuant to points (d), (e), (n) and (o) by 1 February 2021. [<sup>F3</sup>[<sup>X1</sup>The Commission shall adopt the implementing acts referred to in point (ea) by 2 July 2021.]]]

#### **Editorial Information**

- X1** Substituted by [Corrigendum to Directive \(EU\) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive \(EU\) 2017/1132 as regards cross-border conversions, mergers and divisions \(Official Journal of the European Union L 321 of 12 December 2019\)](#).

#### **Textual Amendments**

- F3** Inserted by [Directive \(EU\) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive \(EU\) 2017/1132 as regards cross-border conversions, mergers and divisions \(Text with EEA relevance\)](#).
- F5** Substituted by [Directive \(EU\) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive \(EU\) 2017/1132 as regards cross-border conversions, mergers and divisions \(Text with EEA relevance\)](#).

### *Article 25*

#### **Financing**

1 The establishment and future development of the platform and the adjustments to the portal resulting from this Directive shall be financed from the general budget of the Union.

2 The maintenance and functioning of the platform shall be financed from the general budget of the Union and may be co-financed by fees for access to the system of interconnection of registers charged to its individual users. Nothing in this paragraph shall affect fees at the national level.

3 By means of delegated acts and in accordance with Article 163, the Commission may adopt rules on whether to co-finance the platform by charging fees, and, in that case, the amount of the fees charged to individual users in accordance with paragraph 2 of this Article.

4 Any fees imposed in accordance with paragraph 2 of this Article shall be without prejudice to the fees, if any, charged by Member States for obtaining documents and particulars as referred to in Article 19(1).

5 Any fees imposed in accordance with paragraph 2 of this Article shall not be charged for obtaining the particulars referred to in Article 19(2)(a), (b) and (c).

6 Each Member State shall bear the costs of adjusting its domestic registers, as well as their maintenance and functioning costs resulting from this Directive.



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## Article 26

### Information on letters and order forms

Member States shall prescribe that letters and order forms, whether they are in paper form or use any other medium, are to state the following particulars:

- (a) the information necessary in order to identify the register in which the file referred to in Article 16 is kept, together with the number of the company in that register;
- (b) the legal form of the company, the location of its registered office and, where appropriate, the fact that the company is being wound up.

Where, in those documents, mention is made of the capital of the company, the reference shall be to the capital subscribed and paid up.

Member States shall prescribe that company websites are to contain at least the particulars referred to in the first paragraph and, if applicable, a reference to the capital subscribed and paid up.

## Article 27

### Persons carrying out disclosure formalities

Each Member State shall determine by which persons the disclosure formalities are to be carried out.

## Article 28

### Penalties

Member States shall provide for appropriate penalties at least in the case of:

- (a) failure to disclose accounting documents as required by Article 14(f);
- (b) omission from commercial documents or from any company website of the compulsory particulars provided for in Article 26.

## Section 2

### *[<sup>F1</sup>Registration and disclosure rules applicable to branches of companies from other Member States]*

#### *[<sup>F2</sup>Article 28a*

### Online registration of branches

1 Member States shall ensure that the registration in a Member State of a branch of a company that is governed by the law of another Member State may be fully carried out online without the necessity for the applicants to appear in person before any authority or any person

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or body mandated under national law to deal with any aspect of the application for registration of branches, subject to Article 13b(4) and *mutatis mutandis* to Article 13g(8).

2 Member States shall lay down detailed rules for the online registration of branches, including rules on the documents and information required to be submitted to a competent authority. As part of those rules, Member States shall ensure that online registration may be carried out by submitting information or documents in electronic form, including electronic copies of the documents and information referred to in Article 16a(4), or by making use of the information or documents previously submitted to a register.

3 The rules referred to in paragraph 2 shall at least provide for the following:

- a the procedure to ensure that the applicants have the necessary legal capacity and that they have authority to represent the company;
- b the means for verifying the identity of the person or persons registering the branch or their representatives;
- c the requirements for the applicants to use the trust services referred to in Regulation (EU) No 910/2014.

4 The rules referred to in paragraph 2 may also provide for procedures to do the following:

- a verify the legality of the object of the branch;
- b verify the legality of the name of the branch;
- c verify the legality of the documents and information submitted for the registration of the branch;
- d provide for the role of a notary or any other person or body involved in the process of registration of the branch under the applicable national provisions.

5 Member States may verify the information about the company by means of the system of interconnection of registers when registering a branch of a company established in another Member State.

Member States shall not make the online registration of a branch conditional on obtaining any licence or authorisation before the branch is registered, unless such a condition is indispensable for the proper oversight laid down in national law of certain activities.

6 Member States shall ensure that the online registration of a branch is completed within 10 working days of the completion of all formalities, including the receipt of all the necessary documents and information which comply with national law by an authority or a person or body mandated under national law to deal with any aspect of the registration of a branch.

Where it is not possible to register a branch within the deadlines referred to in this paragraph, Member States shall ensure that the applicant is notified of the reasons for the delay.

7 Following the registration of a branch of a company established under the laws of another Member State, the register of the Member State where that branch is registered shall notify the Member State where the company is registered that the branch has been registered by means of the system of interconnection of registers. The Member State where the company is registered shall acknowledge receipt of such notification and shall record the information in their register without delay.

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**Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

*Article 28b***Online filing of documents and information for branches**

1 Member States shall ensure that documents and information referred to in Article 30 or any modification thereof may be filed online within the period provided by the laws of the Member State where the branch is established. Member States shall ensure that such filing may be completed online in its entirety without the necessity for the applicants to appear in person before any authority or person or body mandated under national law to deal with the online filing, subject to the provisions laid down in Article 13b(4) and *mutatis mutandis* in Article 13g(8).

2 Article 28a (2) to (5) shall apply *mutatis mutandis* to online filing for branches.

3 Member States may require that certain or all documents and information referred to in paragraph 1 are only filed online.

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**Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

*Article 28c***Closure of branches**

Member States shall ensure that, upon receipt of the documents and information referred to in point (h) of Article 30(1), the register of a Member State where a branch of a company is registered informs, by means of the system of interconnection of registers, the register of the Member State where the company is registered that its branch has been closed and struck off the register. The register of the Member State of the company shall acknowledge receipt of such notification also by means of that system and shall record the information without delay.]

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**Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

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### Article 29

#### Disclosure of documents and particulars relating to a branch

1 Documents and particulars relating to a branch opened in a Member State by a company of a type listed in Annex II, which is governed by the law of another Member State, shall be disclosed pursuant to the law of the Member State of the branch, in accordance with Article 16.

2 Where disclosure requirements in respect of the branch differ from those in respect of the company, the branch's disclosure requirements shall take precedence with regard to transactions carried out with the branch.

3 The documents and particulars referred to in Article 30(1) shall be made publicly available through the system of interconnection of registers. Article 18 and Article 19(1) shall apply *mutatis mutandis*.

4 Member States shall ensure that branches have a unique identifier allowing them to be unequivocally identified in communications between registers through the system of interconnection of registers. That unique identifier shall comprise, at least, elements making it possible to identify the Member State of the register, the domestic register of origin and the branch number in that register, and, where appropriate, features to avoid identification errors.

### Article 30

#### Documents and particulars to be disclosed

1 The compulsory disclosure provided for in Article 29 shall cover the following documents and particulars only:

- a the address of the branch;
- b the activities of the branch;
- c the register in which the company file referred to in Article 16 is kept, together with the registration number in that register;
- d the name and legal form of the company and the name of the branch, if that is different from the name of the company;
- e the appointment, termination of office and particulars of the persons who are authorised to represent the company in dealings with third parties and in legal proceedings:
  - as a company organ constituted pursuant to law or as members of any such organ, in accordance with the disclosure by the company as provided for in Article 14(d),
  - as permanent representatives of the company for the activities of the branch, with an indication of the extent of their powers;
- f — the winding-up of the company, the appointment of liquidators, particulars concerning them and their powers and the termination of the liquidation in accordance with disclosure by the company as provided for in Article 14(h), (j) and (k),
  - insolvency proceedings, arrangements, compositions, or any analogous proceedings to which the company is subject;
- g the accounting documents in accordance with Article 31;
- h the closure of the branch.

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- 2 The Member State in which the branch has been opened may provide for the disclosure, as referred to in Article 29, of
- a the signature of the persons referred to in points (e) and (f) of paragraph 1 of this Article;
  - b the instruments of constitution and the memorandum and articles of association if they are contained in a separate instrument, in accordance with points (a), (b) and (c) of Article 14, together with amendments to those documents;
  - c an attestation from the register referred to in point (c) of paragraph 1 of this Article relating to the existence of the company;
  - d an indication of the securities on the company's property situated in that Member State, provided such disclosure relates to the validity of those securities.

### *f<sup>2</sup>Article 30a*

#### **Changes to documents and information of the company**

The Member State where a company is registered shall notify, by means of the system of interconnection of registers, without delay, the Member State where a branch of the company is registered, in the event that a change has been filed with regard to any of the following:

- (a) the company's name;
- (b) the company's registered office;
- (c) the company's registration number in the register;
- (d) the company's legal form;
- (e) the documents and information referred to in points (d) and (f) of Article 14.

Upon receipt of the notification referred to in the first paragraph of this Article, the register in which the branch is registered shall, by means of the system of interconnection of registers, acknowledge receipt of such notification and shall ensure that the documents and information referred to in Article 30(1) are updated without delay.]

#### **Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law](#) (Text with EEA relevance).

### *Article 31*

#### **Limits on the compulsory disclosure of accounting documents**

The compulsory disclosure provided for by Article 30(1)(g) shall be limited to the accounting documents of the company as drawn up, audited and disclosed pursuant to the law of the Member State by which the company is governed in accordance with Directive 2006/43/EC of the European Parliament and of the Council<sup>(6)</sup> and Directive 2013/34/EU.

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[<sup>F2</sup>Member States may provide that the mandatory disclosure of accounting documents referred to in point (g) of Article 30(1) may be considered fulfilled by the disclosure in the register of the Member State in which the company is registered in accordance with point (f) of Article 14.]

#### **Textual Amendments**

- F2** Inserted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

### *Article 32*

#### **Language of disclosure and translation of documents to be disclosed**

The Member State in which the branch has been opened may stipulate that the documents referred to in Article 30(2)(b) and Article 31 are to be published in another official language of the Union and that the translations of such documents are to be certified.

### *Article 33*

#### **Disclosure in cases of multiple branches in a Member State**

Where a company has opened more than one branch in a Member State, the disclosure referred to in Article 30(2)(b) and Article 31 may be made in the register of the branch of the company's choice.

In the case referred to in the first paragraph, compulsory disclosure by the other branches shall cover the particulars of the branch register of which disclosure was made, together with the number of that branch in that register.

### *Article 34*

#### **Information on the opening and termination of winding-up or insolvency proceedings and on striking-off of the company from the register**

1 Article 20 shall apply to the register of the company and to the register of the branch respectively.

2 Member States shall determine the procedure to be followed upon receipt of the information referred to in Article 20(1) and (2). Such procedure shall ensure that, where a company has been dissolved or otherwise struck off the register, its branches are likewise struck off the register without undue delay.

3 The second sentence of paragraph 2 shall not apply to branches of companies that have been struck off the register as a consequence of any change in the legal form of the company concerned, a merger or division, or a cross-border transfer of its registered office.

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## Article 35

### Information on letters and order forms

Member States shall prescribe that letters and order forms used by a branch shall state, in addition to the information prescribed by Article 26, the register in which the file in respect of the branch is kept together with the number of the branch in that register.

## Section 3

### *Disclosure rules applicable to branches of companies from third countries*

## Article 36

### Disclosure of documents and particulars relating to a branch

1 Documents and particulars concerning a branch opened in a Member State by a company which is not governed by the law of a Member State but which is of a legal form comparable with the types of company listed in Annex II, shall be disclosed in accordance with the law of the Member State of the branch as laid down in Article 16.

2 Article 29(2) shall apply.

## Article 37

### Compulsory documents and particulars to be disclosed

The compulsory disclosure provided for in Article 36 shall cover at least the following documents and particulars:

- (a) the address of the branch;
- (b) the activities of the branch;
- (c) the law of the State by which the company is governed;
- (d) where that law so provides, the register in which the company is entered and the registration number of the company in that register;
- (e) the instruments of constitution, and memorandum and articles of association if they are contained in a separate instrument, with all amendments to those documents;
- (f) the legal form of the company, its principal place of business and its object and, at least annually, the amount of subscribed capital if those particulars are not given in the documents referred to in point (e);
- (g) the name of the company and the name of the branch if that is different from the name of the company;
- (h) the appointment, termination of office and particulars of the persons who are authorised to represent the company in dealings with third parties and in legal proceedings:

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- as a company organ constituted pursuant to law or as members of any such organ,
- as permanent representatives of the company for the activities of the branch.

The extent of the powers of the persons authorised to represent the company shall be stated, as well as whether those persons may represent the company alone or are required to act jointly;

- (i) — the winding-up of the company and the appointment of liquidators, particulars concerning them and their powers and the termination of the liquidation,
  - insolvency proceedings, arrangements, compositions or any analogous proceedings to which the company is subject;
- (j) the accounting documents in accordance with Article 38;
- (k) the closure of the branch.

#### *Article 38*

### **Limits of compulsory disclosure of accounting documents**

1 The compulsory disclosure provided for by Article 37(j) shall apply to the accounting documents of the company as drawn up, audited and disclosed pursuant to the law of the State which governs the company. Where they are not drawn up in accordance with or in a manner equivalent to Directive 2013/34/EU, Member States may require that accounting documents relating to the activities of the branch be drawn up and disclosed.

2 Articles 32 and 33 shall apply.

#### *Article 39*

### **Information on letters and order forms**

Member States shall prescribe that letters and order forms used by a branch state the register in which the file in respect of the branch is kept together with the number of the branch in that register. Where the law of the State by which the company is governed requires entry in a register, the register in which the company is entered, and the registration number of the company in that register shall also be stated.

#### *Section 4*

### ***Application and implementing arrangements***

#### *Article 40*

### **Penalties**

Member States shall provide for appropriate penalties in the event of failure to disclose the matters set out in Articles 29, 30, 31, 36, 37 and 38 and of omission from letters and order forms of the compulsory particulars provided for in Articles 35 and 39.



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### Article 41

#### Persons carrying out disclosure formalities

Each Member State shall determine who shall carry out the disclosure formalities provided for in Sections 2 and 3.

### Article 42

#### Exemptions to provisions on disclosure of accounting documents for branches

1 Articles 31 and 38 shall not apply to branches opened by credit institutions and financial institutions covered by Council Directive 89/117/EEC<sup>(7)</sup>.

2 Pending subsequent coordination, the Member States need not apply Articles 31 and 38 to branches opened by insurance companies.

### <sup>F4</sup>Article 43

#### [<sup>F4</sup>Contact Committee]

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#### Textual Amendments

**F4** Deleted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

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#### Textual Amendments

**F1** Substituted by [Directive \(EU\) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive \(EU\) 2017/1132 as regards the use of digital tools and processes in company law \(Text with EEA relevance\)](#).

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- (1) [<sup>F2</sup>Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).]
- (2) Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1).
- (3) Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings (OJ L 374, 31.12.1991, p. 7).
- (4) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).
- (5) [<sup>F1</sup>Commission Implementing Regulation (EU) 2015/884 of 8 June 2015 establishing technical specifications and procedures required for the system of interconnection of registers established by Directive 2009/101/EC of the European Parliament and of the Council (OJ L 144, 10.6.2015, p. 1).]
- (6) Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).
- (7) Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (OJ L 44, 16.2.1989, p. 40).

#### **Textual Amendments**

- F1** Substituted by Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law (Text with EEA relevance).
- F2** Inserted by Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law (Text with EEA relevance).