

Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) (Text with EEA relevance) (repealed)

TITLE III

**PROVISIONS CONCERNING THE FREEDOM OF ESTABLISHMENT AND THE FREEDOM TO PROVIDE SERVICES**

Section 5

**Powers of the competent authorities of the host Member State**

*Article 29*

Host Member States may, for statistical purposes, require that all credit institutions having branches within their territories shall report periodically on their activities in those host Member States to the competent authorities of those host Member States.

In discharging the responsibilities imposed on them in Article 41, host Member States may require that branches of credit institutions from other Member States provide the same information as they require from national credit institutions for that purpose.

*Article 30*

1 Where the competent authorities of a host Member State ascertain that a credit institution having a branch or providing services within its territory is not complying with the legal provisions adopted in that State pursuant to the provisions of this Directive involving powers of the host Member State's competent authorities, those authorities shall require the credit institution concerned to put an end to that irregular situation.

2 If the credit institution concerned fails to take the necessary steps, the competent authorities of the host Member State shall inform the competent authorities of the home Member State accordingly.

The competent authorities of the home Member State shall, at the earliest opportunity, take all appropriate measures to ensure that the credit institution concerned puts an end to that irregular situation. The nature of those measures shall be communicated to the competent authorities of the host Member State.

3 If, despite the measures taken by the home Member State or because such measures prove inadequate or are not available in the Member State in question, the credit institution persists in violating the legal rules referred to in paragraph 1 in force in the host Member State, the latter State may, after informing the competent authorities of the home Member State, take appropriate measures to prevent or to punish further irregularities and, in so far as is necessary, to prevent that credit institution from initiating further transactions within its territory. The Member States shall ensure that within their territories it is possible to serve the legal documents necessary for these measures on credit institutions.

*Article 31*

Articles 29 and 30 shall not affect the power of host Member States to take appropriate measures to prevent or to punish irregularities committed within their territories which

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are contrary to the legal rules they have adopted in the interests of the general good. This shall include the possibility of preventing offending credit institutions from initiating further transactions within their territories.

#### *Article 32*

Any measure taken pursuant to Article 30(2) and (3), or Article 31 involving penalties or restrictions on the exercise of the freedom to provide services shall be properly justified and communicated to the credit institution concerned. Every such measure shall be subject to a right of appeal to the courts in the Member State in which it was taken.

#### *Article 33*

[<sup>F1</sup>Before following the procedure provided for in Article 30, the competent authorities of the host Member State may, in emergencies, take any precautionary measures necessary to protect the interests of depositors, investors and others to whom services are provided. The Commission, EBA and the competent authorities of the other Member States concerned shall be informed of such measures at the earliest opportunity.]

The Commission may, after consulting the competent authorities of the Member States concerned, decide that the Member State in question shall amend or abolish those measures.

#### **Textual Amendments**

- F1** Substituted by [Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority \(European Banking Authority\), the European Supervisory Authority \(European Insurance and Occupational Pensions Authority\) and the European Supervisory Authority \(European Securities and Markets Authority\) \(Text with EEA relevance\).](#)

#### *Article 34*

Host Member States may exercise the powers conferred on them under this Directive by taking appropriate measures to prevent or to punish irregularities committed within their territories. This shall include the possibility of preventing offending credit institutions from initiating further transactions within their territories.

#### *Article 35*

In the event of the withdrawal of authorisation, the competent authorities of the host Member State shall be informed and shall take appropriate measures to prevent the credit institution concerned from initiating further transactions within its territory and to safeguard the interests of depositors.

#### *[<sup>F1</sup>Article 36*

The Member States shall inform the Commission and EBA of the number and type of cases in which there has been a refusal pursuant to Article 25 and Article 26(1), (2) and (3) or in which measures have been taken in accordance with Article 30(3).]

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#### *Article 37*

This Section shall not prevent credit institutions with head offices in other Member States from advertising their services through all available means of communication in the host Member State, subject to any rules governing the form and the content of such advertising adopted in the interests of the general good.