

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 3

Supervision on a consolidated basis

Section I

Principles for conducting supervision on a consolidated basis

Article III

Determination of the consolidating supervisor

1 Where a parent undertaking is a parent institution in a Member State or an EU parent institution, supervision on a consolidated basis shall be exercised by the competent authorities that granted authorisation.

2 Where the parent of an institution is a parent financial holding company or parent mixed financial holding company in a Member State or an EU parent financial holding company or EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities that granted authorisation.

3 Where institutions authorised in two or more Member States have as their parent the same parent financial holding company, the same parent mixed financial holding company in a Member State, the same EU parent financial holding company or the same EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities of the institution authorised in the Member State in which the financial holding company or mixed financial holding company was set up.

Where the parent undertakings of institutions authorised in two or more Member States comprise more than one financial holding company or mixed financial holding company with head offices in different Member States and there is a credit institution in each of those States, supervision on a consolidated basis shall be exercised by the competent authority of the credit institution with the largest balance sheet total.

4 Where more than one institution authorised in the Union has as its parent the same financial holding company or mixed financial holding company and none of those institutions has been authorised in the Member State in which the financial holding company or mixed financial holding company was set up, supervision on a consolidated basis shall be exercised by the competent authority that authorised the institution with the largest balance sheet total,

which shall be considered, for the purposes of this Directive, as the institution controlled by an EU parent financial holding company or EU parent mixed financial holding company.

5 In particular cases, the competent authorities may, by common agreement, waive the criteria referred to in paragraphs 3 and 4 if their application would be inappropriate, taking into account the institutions and the relative importance of their activities in different countries, and appoint a different competent authority to exercise supervision on a consolidated basis. In such cases, before taking their decision, the competent authorities shall give the EU parent institution, EU parent financial holding company, EU parent mixed financial holding company, or institution with the largest balance sheet total, as appropriate, an opportunity to state its opinion on that decision.

6 The competent authorities shall notify the Commission and EBA of any agreement falling within paragraph 5.