

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 116

Colleges of supervisors

1 The consolidating supervisor shall establish colleges of supervisors to facilitate the exercise of the tasks referred to in Articles 112 and 113 and Article 114(1) and subject to the confidentiality requirements of paragraph 2 of this Article and to Union law, ensure appropriate coordination and cooperation with relevant third-country supervisory authorities where appropriate.

EBA shall contribute to promoting and monitoring the efficient, effective and consistent functioning of colleges of supervisors referred to in this Article in accordance with Article 21 of Regulation (EU) No 1093/2010. To that end, EBA shall participate as appropriate and shall be considered to be a competent authority for that purpose.

Colleges of supervisors shall provide a framework for the consolidating supervisor, EBA and the other competent authorities concerned to carry out the following tasks:

- a exchanging information between each other and with EBA in accordance with Article 21 of Regulation (EU) No 1093/2010;
- b agreeing on voluntary entrustment of tasks and voluntary delegation of responsibilities where appropriate;
- c determining supervisory examination programmes referred to in Article 99 based on a risk assessment of the group in accordance with Article 97;
- d increasing the efficiency of supervision by removing unnecessary duplication of supervisory requirements, including in relation to the information requests referred to in Article 114 and Article 117(3);
- e consistently applying the prudential requirements under this Directive and under Regulation (EU) No 575/2013 across all entities within a group of institutions without prejudice to the options and discretions available in Union law;

f applying Article 112(1)(c) taking into account the work of other forums that may be established in that area.

2 The competent authorities participating in the colleges of supervisors and EBA shall cooperate closely. The confidentiality requirements under Chapter 1, Section II of this Directive, and Articles 54 and 58 of Directive 2004/39/EC shall not prevent the competent authorities from exchanging confidential information within colleges of supervisors. The establishment and functioning of colleges of supervisors shall not affect the rights and responsibilities of the competent authorities under this Directive and under Regulation (EU) No 575/2013.

3 The establishment and functioning of the colleges shall be based on written arrangements referred to in Article 115, determined after consulting competent authorities concerned by the consolidating supervisor.

4 EBA shall develop draft regulatory technical standards in order to specify general conditions of functioning of the colleges of supervisors.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 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.

5 EBA shall develop draft implementing technical standards in order to determine the operational functioning of the colleges of supervisors.

EBA shall submit those draft implementing technical standards to the Commission by 31 December 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.

6 The competent authorities responsible for the supervision of subsidiaries of an EU parent institution or an EU parent financial holding company or EU parent mixed financial holding company and the competent authorities of a host Member State where significant branches as referred to in Article 51 are established, ESCB central banks as appropriate, and third countries' supervisory authorities where appropriate and subject to confidentiality requirements that are equivalent, in the opinion of all competent authorities, to the requirements under Chapter 1, Section II of this Directive and where applicable, Articles 54 and 58 of Directive 2004/39/EC, may participate in colleges of supervisors.

7 The consolidating supervisor shall chair the meetings of the college and shall decide which competent authorities participate in a meeting or in an activity of the college. The consolidating supervisor shall keep all members of the college fully informed, in advance, of the organisation of such meetings, the main issues to be discussed and the activities to be considered. The consolidating supervisor shall also keep all the members of the college fully informed, in a timely manner, of the actions taken in those meetings or the measures carried out.

8 The decision of the consolidating supervisor shall take account of the relevance of the supervisory activity to be planned or coordinated for those authorities, in particular the potential impact on the stability of the financial system in the Member States concerned as referred to in Article 7 and the obligations referred to in Article 51(2).

9 The consolidating supervisor, subject to the confidentiality requirements under Chapter 1, Section II, of this Directive, and where applicable, Articles 54 and 58 of Directive

2004/39/EC, shall inform EBA of the activities of the college of supervisors, including in emergency situations, and communicate to EBA all information that is of particular relevance for the purposes of supervisory convergence.

In the event of a disagreement between competent authorities on the functioning of supervisory colleges, any of the competent authorities concerned may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

EBA may also assist the competent authorities in the event of a disagreement concerning the functioning of supervisory colleges under this Article on its own initiative in accordance with the second subparagraph of Article 19(1) of that Regulation.