

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 1

Principles of prudential supervision

Section I

Competence and duties of home and host Member States

Article 51

Significant branches

1 The competent authorities of a host Member State may make a request to the consolidating supervisor, where Article 112(1) applies, or to the competent authorities of the home Member State for a branch of an institution other than an investment firm subject to Article 95 of Regulation (EU) No 575/2013 to be considered as significant.

That request shall provide reasons for considering the branch to be significant with particular regard to the following:

- a whether the market share of the branch in terms of deposits exceeds 2 % in the host Member State;
- b the likely impact of a suspension or closure of the operations of the institution on systemic liquidity and the payment, clearing and settlement systems in the host Member State;
- c the size and the importance of the branch in terms of number of clients within the context of the banking or financial system of the host Member State.

The competent authorities of the home and host Member States, and, where Article 112(1) applies, the consolidating supervisor, shall do everything within their power to reach a joint decision on the designation of a branch as being significant.

If no joint decision is reached within two months of receipt of a request under the first subparagraph, the competent authorities of the host Member State shall take their own decision within a further period of two months on whether the branch is significant. In taking their decision, the competent authorities of the host Member State shall take into account any views and reservations of the consolidating supervisor or the competent authorities of the home Member State.

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The decisions referred to in the third and fourth subparagraphs shall be set out in a document containing full reasons, shall be transmitted to the competent authorities concerned and shall be recognised as determinative and applied by the competent authorities in the Member States concerned.

The designation of a branch as being significant shall not affect the rights and responsibilities of the competent authorities under this Directive.

2 The competent authorities of the home Member State shall communicate to the competent authorities of a host Member State where a significant branch is established the information referred to in Article 117(1)(c) and (d) and carry out the tasks referred to in Article 112(1)(c) in cooperation with the competent authorities of the host Member State.

If a competent authority of a home Member State becomes aware of an emergency situation as referred to in Article 114(1), it shall alert without delay the authorities referred to in Article 58(4) and Article 59(1).

The competent authorities of the home Member State shall communicate to the competent authorities of the host Member States where significant branches are established the results of the risk assessments of institutions with such branches referred to in Article 97 and, where applicable, Article 113(2). They shall also communicate decisions under Articles 104 and 105 in so far as those assessments and decisions are relevant to those branches.

The competent authorities of the home Member States shall consult the competent authorities of the host Member States where significant branches are established about operational steps required by Article 86(11), where relevant for liquidity risks in the host Member State's currency.

Where the competent authorities of the home Member State have not consulted the competent authorities of the host Member State, or where, following such consultation, the competent authorities of the host Member State maintain that operational steps required by Article 86(11) are not adequate, the competent authorities of the host Member State may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

3 Where Article 116 does not apply, the competent authorities supervising an institution with significant branches in other Member States shall establish and chair a college of supervisors to facilitate the cooperation under paragraph 2 of this Article and under Article 50. The establishment and functioning of the college shall be based on written arrangements to be determined, after consulting the competent authorities concerned, by the competent authority of the home Member State. The competent authority of the home Member State shall decide which competent authorities participate in a meeting or in an activity of the college.

The decision of the competent authority of the home Member State 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 referred to in Article 7 and the obligations referred to in paragraph 2 of this Article.

The competent authority of the home Member State 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 competent authority of the home Member State 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.

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

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 colleges of supervisors.

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 EBA shall submit the draft technical standards referred to in paragraphs 4 and 5 to the Commission by 31 December 2014.