

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 IV

Supervisory powers, powers to impose penalties and right of appeal

Article 65

Administrative penalties and other administrative measures

1 Without prejudice to the supervisory powers of competent authorities referred to in Article 64 and the right of Member States to provide for and impose criminal penalties, Member States shall lay down rules on administrative penalties and other administrative measures in respect of breaches of national provisions transposing this Directive and of Regulation (EU) No 575/2013 and shall take all measures necessary to ensure that they are implemented. Where Member States decide not to lay down rules for administrative penalties for breaches which are subject to national criminal law they shall communicate to the Commission the relevant criminal law provisions. The administrative penalties and other administrative measures shall be effective, proportionate and dissuasive.

2 Member States shall ensure that where the obligations referred to in paragraph 1 apply to institutions, financial holding companies and mixed financial holding companies in the event of a breach of national provisions transposing this Directive or of Regulation (EU) No 575/2013, penalties may be applied, subject to the conditions laid down in national law, to the members of the management body and to other natural persons who under national law are responsible for the breach.

3 Competent authorities shall have all information gathering and investigatory powers that are necessary for the exercise of their functions. Without prejudice to other relevant provisions laid down in this Directive and in Regulation (EU) No 575/2013 those powers shall include:

- a the power to require the following natural or legal persons to provide all information that is necessary in order to carry out the tasks of the competent authorities, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes:
 - (i) institutions established in the Member State concerned;

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- (ii) financial holding companies established in the Member State concerned;
 - (iii) mixed financial holding companies established in the Member State concerned;
 - (iv) mixed-activity holding companies established in the Member State concerned;
 - (v) persons belonging to the entities referred to in points (i) to (iv);
 - (vi) third parties to whom the entities referred to in points (i) to (iv) have outsourced operational functions or activities;
- b the power to conduct all necessary investigations of any person referred to in points (a)(i) to (vi) established or located in the Member State concerned where necessary to carry out the tasks of the competent authorities, including:
- (i) the right to require the submission of documents;
 - (ii) to examine the books and records of the persons referred to in points(a)(i) to (vi) and take copies or extracts from such books and records;
 - (iii) to obtain written or oral explanations from any person referred to in points (a) (i) to (vi) or their representatives or staff; and
 - (iv) to interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;
- c the power, subject to other conditions set out in Union law, to conduct all necessary inspections at the business premises of the legal persons referred to in points (a) (i) to (vi) and any other undertaking included in consolidated supervision where a competent authority is the consolidating supervisor, subject to the prior notification of the competent authorities concerned. If an inspection requires authorisation by a judicial authority under national law, such authorisation shall be applied for.