

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 I

### SUBJECT MATTER, SCOPE AND DEFINITIONS

- Article 1 Subject matter
- Article 2 Scope
- Article 3 Definitions

## TITLE II

### COMPETENT AUTHORITIES

- Article 4 Designation and powers of the competent authorities
- Article 5 Coordination within Member States
- Article 6 Cooperation within the European System of Financial Supervision
- Article 7 Union dimension of supervision

## TITLE III

### REQUIREMENTS FOR ACCESS TO THE ACTIVITY OF CREDIT INSTITUTIONS

#### CHAPTER 1

##### General requirements for access to the activity of credit institutions

- Article 8 Authorisation
- Article 9 Prohibition against persons or undertakings other than credit institutions from carrying out the business of taking deposits or other repayable funds from the public
- Article 10 Programme of operations, structural organisation and governance arrangements
- Article 11 Economic needs
- Article 12 Initial capital
- Article 13 Effective direction of the business and place of the head office
- Article 14 Shareholders and members
- Article 15 Refusal of authorisation
- Article 16 Prior consultation of the competent authorities of other Member States
- Article 17 Branches of credit institutions authorised in another Member State
- Article 18 Withdrawal of authorisation

Article 19	Name of credit institutions
Article 20	Notification of authorisation and withdrawal of authorisation
Article 21	Waiver for credit institutions permanently affiliated to a central body
Article 21a	Approval of financial holding companies and mixed financial holding companies
Article 21b	Intermediate EU parent undertaking

## CHAPTER 2

### Qualifying holding in a credit institution

Article 22	Notification and assessment of proposed acquisitions
Article 23	Assessment criteria
Article 24	Cooperation between competent authorities
Article 25	Notification in the case of a divestiture
Article 26	Information obligations and penalties
Article 27	Criteria for qualifying holdings

## TITLE IV

### INITIAL CAPITAL OF INVESTMENT FIRMS

Article 28	Initial capital of investment firms
Article 29	Initial capital of particular types of investment firms
Article 30	Initial capital of local firms
Article 31	Coverage for firms not authorised to hold client money or securities
Article 32	Grandfathering provision

## TITLE V

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

## CHAPTER 1

### General Principles

Article 33	Credit institutions
Article 34	Financial institutions

## CHAPTER 2

### The right of establishment of credit institutions

Article 35	Notification requirement and interaction between competent authorities
Article 36	Commencement of activities
Article 37	Information about refusals
Article 38	Aggregation of branches

## CHAPTER 3

### Exercise of the freedom to provide services

Article 39 Notification procedure

## CHAPTER 4

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

Article 40 Reporting requirements

Article 41 Measures taken by the competent authorities of the home  
Member State in relation to activities carried out in the host  
Member State

Article 42 Reasons and communication

Article 43 Precautionary measures

Article 44 Powers of host Member States

Article 45 Measures following withdrawal of authorisation

Article 46 Advertising

## TITLE VI

### RELATIONS WITH THIRD COUNTRIES

Article 47 Notification in relation to third-country branches and conditions  
of access for credit institutions with such branches

Article 48 Cooperation with supervisory authorities of third countries  
regarding supervision on a consolidated basis

## TITLE VII

### PRUDENTIAL SUPERVISION

## CHAPTER 1

### Principles of prudential supervision

#### Section I

#### Competence and duties of home and host Member States

Article 49 Competence of the competent authorities of the home and host  
Member States

Article 50 Collaboration concerning supervision

Article 51 Significant branches

Article 52 On-the-spot checking and inspection of branches established in  
another Member State

## Section II

### Exchange of information and professional secrecy

Article 53	Professional secrecy
Article 54	Use of confidential information
Article 54a	Articles 53 and 54 shall be without prejudice to the...
Article 55	Cooperation agreements
Article 56	Exchange of information between authorities
Article 57	Exchange of information with oversight bodies
Article 58	Transmission of information concerning monetary, deposit protection, systemic and payment aspects
Article 58a	Transmission of information to international bodies
Article 59	Transmission of information to other entities
Article 60	Disclosure of information obtained by on-the-spot checks and inspections
Article 61	Disclosure of information concerning clearing and settlement services
Article 62	Processing of personal data

## Section III

### Duty of persons responsible for the legal control of annual and consolidated accounts

Article 63	Duty of persons responsible for the legal control of annual and consolidated accounts
------------	---

## Section IV

### Supervisory powers, powers to impose penalties and right of appeal

Article 64	Supervisory powers and powers to impose penalties
Article 65	Administrative penalties and other administrative measures
Article 66	Administrative penalties and other administrative measures for breaches of authorisation requirements and requirements for acquisitions of qualifying holdings
Article 67	Other provisions
Article 68	Publication of administrative penalties
Article 69	Exchange of information on penalties and maintenance of a central database by EBA
Article 70	Effective application of penalties and exercise of powers to impose penalties by competent authorities
Article 71	Reporting of breaches
Article 72	Right of appeal

## CHAPTER 2

### Review Processes

#### Section I

##### Internal capital adequacy assessment process

Article 73 Internal Capital

#### Section II

##### Arrangements, processes and mechanisms of institutions

#### Sub-Section 1

##### General principles

Article 74 Internal governance and recovery and resolution plans

Article 75 Oversight of remuneration policies

#### Sub-Section 2

##### Technical criteria concerning the organisation and treatment of risks

Article 76 Treatment of risks

Article 77 Internal Approaches for calculating own funds requirements

Article 78 Supervisory benchmarking of internal approaches for calculating own funds requirements

Article 79 Credit and counterparty risk

Article 80 Residual risk

Article 81 Concentration risk

Article 82 Securitisation risk

Article 83 Market risk

Article 84 Interest risk arising from non-trading book activities

Article 85 Operational risk

Article 86 Liquidity risk

Article 87 Risk of excessive leverage

#### Sub-Section 3

##### Governance

Article 88 Governance arrangements

Article 89 Country-by-country reporting

Article 90 Public disclosure of return on assets

Article 91 Management body

Article 92 Remuneration policies

Article 93 Institutions that benefit from government intervention

Article 94 Variable elements of remuneration

Article 95 Remuneration Committee

Article 96 Maintenance of a website on corporate governance and remuneration

### Section III

#### Supervisory review and evaluation process

Article 97	Supervisory review and evaluation
Article 98	Technical criteria for the supervisory review and evaluation
Article 99	Supervisory examination programme
Article 100	Supervisory stress testing
Article 101	Ongoing review of the permission to use internal approaches

### Section IV

#### Supervisory measures and powers

Article 102	Supervisory measures
Article 103	Application of supervisory measures to institutions with similar risk profiles
Article 104	Supervisory powers
Article 104a	Additional own funds requirement
Article 104b	Guidance on additional own funds
Article 104c	Cooperation with resolution authorities
Article 105	Specific liquidity requirements
Article 106	Specific publication requirements
Article 107	Consistency of supervisory reviews, evaluations and supervisory measures

### Section V

#### Level of application

Article 108	Internal capital adequacy assessment process
Article 109	Institutions' arrangements, processes and mechanisms
Article 110	Review and evaluation and supervisory measures

## CHAPTER 3

### Supervision on a consolidated basis

#### Section I

##### Principles for conducting supervision on a consolidated basis

Article 111	Determination of the consolidating supervisor
Article 112	Coordination of supervisory activities by the consolidating supervisor
Article 113	Joint decisions on institution-specific prudential requirements
Article 114	Information requirements in emergency situations
Article 115	Coordination and cooperation arrangements
Article 116	Colleges of supervisors
Article 117	Cooperation obligations
Article 118	Checking information concerning entities in other Member States

## Section II

### Financial holding companies, mixed financial holding companies and mixed-activity holding companies

Article 119	Inclusion of holding companies in consolidated supervision
Article 120	Supervision of mixed financial holding companies
Article 121	Qualification of directors
Article 122	Requests for information and inspections
Article 123	Supervision
Article 124	Exchange of information
Article 125	Cooperation
Article 126	Penalties
Article 127	Assessment of equivalence of third countries' consolidated supervision

## CHAPTER 4

### Capital Buffers

#### Section I

##### Buffers

Article 128	Definitions
Article 129	Requirement to maintain a capital conservation buffer
Article 130	Requirement to maintain an institution-specific countercyclical capital buffer
Article 131	Global and other systemically important institutions
Article 132	Reporting
Article 133	Requirement to maintain a systemic risk buffer
Article 134	Recognition of a systemic risk buffer rate

#### Section II

##### Setting and calculating countercyclical capital buffers

Article 135	ESRB guidance on setting countercyclical buffer rates
Article 136	Setting countercyclical buffer rates
Article 137	Recognition of countercyclical buffer rates in excess of 2,5 %
Article 138	ESRB recommendation on third country countercyclical buffer rates
Article 139	Decision by designated authorities on third country countercyclical buffer rates
Article 140	Calculation of institution-specific countercyclical capital buffer rates

#### Section III

##### Capital conservation measures

Article 141	Restrictions on distributions
Article 141a	Failure to meet the combined buffer requirement

Article 142 Capital Conservation Plan

#### TITLE VIII

#### DISCLOSURE BY COMPETENT AUTHORITIES

Article 143 General disclosure requirements  
Article 144 Specific disclosure requirements

#### TITLE IX

#### DELEGATED AND IMPLEMENTING ACTS

Article 145 Delegated Acts  
Article 146 Implementing acts  
Article 147 European Banking Committee  
Article 148 Exercise of the delegation  
Article 149 Objections to regulatory technical standards

#### TITLE X

#### AMENDMENTS OF DIRECTIVE 2002/87/EC

Article 150 Amendments of Directive 2002/87/EC

#### TITLE XI

#### TRANSITIONAL AND FINAL PROVISIONS

#### CHAPTER 1

Transitional provisions on the supervision of institutions exercising the freedom of establishment and the freedom to provide services

Article 151 Scope  
Article 152 Reporting requirements  
Article 153 Measures taken by the competent authorities of the home Member State in relation to activities carried out in the host Member State  
Article 154 Precautionary measures  
Article 155 Responsibility  
Article 156 Liquidity supervision  
Article 157 Collaboration concerning supervision  
Article 158 Significant branches  
Article 159 On-the-spot checks



## CHAPTER 1A

### Transitional provisions on financial holding companies and mixed financial holding companies

Article 159a Transitional provisions on approval of financial holding  
companies and mixed financial holding companies

## CHAPTER 2

### Transitional provisions for capital buffers

Article 160 Transitional provisions for capital buffers

## CHAPTER 3

### Final provisions

Article 161 Review and report  
Article 162 Transposition  
Article 163 Repeal  
Article 164 Entry into force  
Article 165 Addressees

---

## ANNEX I

### LIST OF ACTIVITIES SUBJECT TO MUTUAL RECOGNITION

Taking deposits and other repayable funds. Lending including,  
inter alia:...  
The services and activities provided for in Sections A and...

## ANNEX II

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- (1) [OJ C 105, 11.4.2012, p. 1.](#)
- (2) [OJ L 177, 30.6.2006, p. 1.](#)
- (3) [OJ L 177, 30.6.2006, p. 201.](#)
- (4) See page 1 of this Official Journal.
- (5) [OJ L 145, 30.4.2004, p. 1.](#)
- (6) [OJ L 331, 15.12.2010, p. 12.](#)
- (7) Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States ([OJ L 93, 7.4.2009, p. 23](#)).
- (8) Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA ([OJ L 93, 7.4.2009, p. 33](#)).
- (9) [OJ L 125, 5.5.2001, p. 15.](#)
- (10) [OJ L 331, 15.12.2010, p. 1.](#)
- (11) [OJ L 55, 28.2.2011, p. 13.](#)
- (12) [OJ L 35, 11.2.2003, p. 1.](#)
- (13) [OJ L 319, 5.12.2007, p. 1](#)
- (14) [OJ L 302, 17.11.2009, p. 32.](#)
- (15) [OJ L 267, 10.10.2009, p. 7.](#)
- (16) [OJ L 174, 1.7.2011, p. 1.](#)
- (17) [OJ L 281, 23.11.1995, p. 31.](#)
- (18) [OJ L 8, 12.1.2001, p. 1.](#)
- (19) [OJ C 175, 19.6.2012, p. 1.](#)