

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 II

COMPETENT AUTHORITIES

Article 4

Designation and powers of the competent authorities

1 Member States shall designate competent authorities that carry out the functions and duties provided for in this Directive and in Regulation (EU) No 575/2013. They shall inform the Commission and EBA thereof, indicating any division of functions and duties.

2 Member States shall ensure that the competent authorities monitor the activities of institutions, and where applicable, of financial holding companies and mixed financial holding companies, so as to assess compliance with the requirements of this Directive and Regulation (EU) No 575/2013.

3 Member States shall ensure that appropriate measures are in place to enable the competent authorities to obtain the information needed to assess the compliance of institutions and, where applicable, of financial holding companies and mixed financial holding companies, with the requirements referred to in paragraph 2 and to investigate possible breaches of those requirements.

4 Member States shall ensure that the competent authorities have the expertise, resources, operational capacity, powers and independence necessary to carry out the functions relating to prudential supervision, investigations and penalties set out in this Directive and in Regulation (EU) No 575/2013.

5 Member States shall require that institutions provide the competent authorities of their home Member States with all the information necessary for the assessment of their compliance with the rules adopted in accordance with this Directive and Regulation (EU) No 575/2013. Member States shall also ensure that internal control mechanisms and administrative and accounting procedures of the institutions permit the checking of their compliance with such rules at all times.

6 Member States shall ensure that institutions register all their transactions and document systems and processes, which are subject to this Directive and Regulation (EU) No 575/2013 in such a manner that the competent authorities are able to check compliance with this Directive and Regulation (EU) No 575/2013 at all times.

7 Member States shall ensure that the functions of supervision pursuant to this Directive and to Regulation (EU) No 575/2013 and any other functions of the competent authorities are separate and independent from the functions relating to resolution. Member States shall inform the Commission and EBA thereof, indicating any division of duties.

8 Member States shall ensure that where authorities other than the competent authorities have the power of resolution, those other authorities cooperate closely and consult the competent authorities with regard to the preparation of resolution plans.

Article 5

Coordination within Member States

Where Member States have more than one competent authority for the prudential supervision of credit institutions, investment firms and financial institutions, Member States shall take the requisite measures to organise coordination between such authorities.

Article 6

Cooperation within the European System of Financial Supervision

In the exercise of their duties, the competent authorities shall take into account the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to this Directive and to Regulation (EU) No 575/2013. For that purpose, Member States shall ensure that:

- (a) the competent authorities, as parties to the European System of Financial Supervision (ESFS), cooperate with trust and full mutual respect, in particular when ensuring the flow of appropriate and reliable information between them and other parties to the ESFS, in accordance with the principle of sincere cooperation set out in Article 4(3) of the Treaty on European Union;
- (b) the competent authorities participate in the activities of EBA and, as appropriate, in the colleges of supervisors;
- (c) the competent authorities make every effort to comply with those guidelines and recommendations issued by EBA in accordance with Article 16 of Regulation (EU) No 1093/2010 and to respond to the warnings and recommendations issued by the ESRB pursuant to Article 16 of Regulation (EU) No 1092/2010;
- (d) the competent authorities cooperate closely with the ESRB;
- (e) national mandates conferred on the competent authorities do not inhibit the performance of their duties as members of EBA, of the ESRB, where appropriate, or under this Directive and under Regulation (EU) No 575/2013.

Article 7

Union dimension of supervision

The competent authorities in each Member State shall, in the exercise of their general duties, duly consider the potential impact of their decisions on the stability of the financial system in the other Member States concerned and, in particular, in emergency situations, based on the information available at the relevant time.