

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 XI

TRANSITIONAL AND FINAL PROVISIONS

CHAPTER 3

Final provisions

Article 161

Review and report

1 The Commission shall conduct periodic reviews of the implementation of this Directive in order to ensure that its implementation does not result in manifest discrimination between institutions on the basis of their legal structure or ownership model.

2 By 30 June 2016, the Commission shall, in close cooperation with EBA, submit a report to the European Parliament and to the Council, together with a legislative proposal if appropriate, on the provisions on remuneration in this Directive and in Regulation (EU) No 575/2013, following a review thereof, taking into account international developments and with particular regard to:

- a their efficiency, implementation and enforcement, including the identification of any lacunae arising from the application of the principle of proportionality to those provisions;
- b the impact of compliance with the principle in Article 94(1)(g) in respect of:
 - (i) competitiveness and financial stability; and
 - (ii) any staff working effectively and physically in subsidiaries established outside the EEA of parent institutions established within the EEA.

That review shall consider, in particular, whether the principle set out in Article 94(1)(g) should continue to apply to any staff covered by point (b)(ii) of the first subparagraph.

3 From 2014, EBA shall, in cooperation with EIOPA and ESMA, publish a biannual report analysing the extent to which Member States' law refers to external credit ratings for regulatory purposes and the steps taken by Member States to reduce such references. Those reports shall outline how the competent authorities meet their obligations under Article 77(1) and (3) and Article 79(b). Those reports shall also outline the degree of supervisory convergence in that regard.

4 By 31 December 2014, the Commission shall review and report on the application of Articles 108 and 109 and shall submit that report to the European Parliament and to the Council together with a legislative proposal if appropriate.

5 By 31 December 2016, the Commission shall review and report on the results achieved under Article 91(11), including the appropriateness of benchmarking diversity practices, taking into account all relevant Union and international developments, and shall submit that report to the European Parliament and to the Council together with a legislative proposal if appropriate.

6 By 31 December 2015, the Commission shall consult the ESRB, EBA, EIOPA, ESMA and other relevant parties on the effectiveness of information-sharing arrangements under this Directive, both in normal times and during times of stress.

7 By 31 December 2015, EBA shall review and submit a report to the Commission on the application of this Directive and of Regulation (EU) No 575/2013 on the cooperation of the Union and Member States with third countries. That report shall identify any areas which require further development as regards cooperation and information sharing. EBA shall publish the report on its website.

8 Upon receiving a mandate from the Commission, EBA shall explore whether financial sector entities which declare that they carry out their activities in accordance with Islamic banking principles are adequately covered by this Directive and by Regulation (EU) No 575/2013. The Commission shall review the report prepared by EBA and shall submit a legislative proposal to the European Parliament and to the Council if appropriate.

9 By 1 July 2014, EBA shall report to the Commission on credit institutions' use of and benefits from ESCB central banks longer-term refinancing operations and similar central bank funding support measures. Based on that report and after consulting the ECB, the Commission shall, by 31 December 2014, submit a report to the European Parliament and to the Council on the use of and benefits from those refinancing operations and funding support measures for credit institutions authorised in the Union, together with a legislative proposal on the use of such refinancing operations and funding support measures if appropriate.

Article 162

Transposition

1 By 31 December 2013 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive.

Member States shall apply those provisions from 31 December 2013.

Member States shall communicate to the Commission and to EBA the text of the main provisions of national law which they adopt in the field covered by this Directive. Where the documents accompanying notification of transposition measures provided by Member States are not sufficient to assess fully the compliance of the transposing provisions with certain provisions of this Directive, the Commission may, upon EBA's request with a view to carrying out its tasks under Regulation (EU) No 1093/2010, or on its own initiative, require Member States to provide more detailed information regarding the transposition and implementation of those provisions and this Directive.

2 By way of derogation from paragraph 1, Title VII, Chapter 4 shall apply from 1 January 2016.

3 The laws, regulations and administrative provisions necessary to comply with Article 94(1)(g) shall require institutions to apply the principles laid down therein to remuneration awarded for services provided or performance from the year 2014 onwards, whether due on the basis of contracts concluded before or after 31 December 2013.

4 When Member States adopt the provisions referred to in paragraphs 1 and 2, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

5 By way of derogation from paragraph 1 of this Article, Article 131 shall apply from 1 January 2016. Member States shall implement Article 131(4) from 1 January 2016 in the following manner:

- a 25 % of the G-SII buffer, set in accordance with Article 131(4), in 2016;
- b 50 % of the G-SII buffer, set in accordance with Article 131(4), in 2017;
- c 75 % of the G-SII buffer, set in accordance with Article 131(4), in 2018; and
- d 100 % of the G-SII buffer, set in accordance with Article 131(4), in 2019.

6 By way of derogation from paragraph 2 of this Article, Article 133 shall apply from 31 December 2013.

Article 163

Repeal

Directives 2006/48/EC and 2006/49/EC are repealed with effect from 1 January 2014.

References to the repealed Directives shall be construed as references to this Directive and to Regulation (EU) No 575/2013 and shall be read in accordance with the correlation table set out in Annex II to this Directive and in Annex IV to Regulation (EU) No 575/2013.

Article 164

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 165

Addressees

This Directive is addressed to the Member States.