

Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (Text with EEA relevance)

TITLE IV

PRUDENTIAL SUPERVISION

CHAPTER 3

Supervision of investment firm groups

Section 2

Investment holding companies, mixed financial holding companies and mixed#activity holding companies

Article 51

Inclusion of holding companies in supervision of compliance with the group capital test

Member States shall ensure that investment holding companies and mixed financial holding companies are included in the supervision of compliance with the group capital test.

Article 52

Qualifications of directors

Member States shall require that the members of the management body of an investment holding company or mixed financial holding company are of sufficiently good repute and possess sufficient knowledge, skills and experience to effectively perform their duties, taking into account the specific role of an investment holding company or mixed financial holding company.

Article 53

Mixed#activity holding companies

1 Member States shall provide that, where the parent undertaking of an investment firm is a mixed#activity holding company, the competent authorities responsible for the supervision of the investment firm may:

- a require that the mixed#activity holding company supply them with any information that may be relevant for the supervision of that investment firm;

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.

- b supervise transactions between the investment firm and the mixed#activity holding company and the subsidiaries of the latter, and require the investment firm to have in place adequate risk management processes and internal control mechanisms, including sound reporting and accounting procedures to identify, measure, monitor and control those transactions.

2 Member States shall provide that their competent authorities may carry out, or have carried out by external inspectors, on#the#spot inspections to verify the information received from mixed#activity holding companies and their subsidiaries.

Article 54

Sanctions

[^{X1}In accordance with Section 3 of Chapter 1 of this Title,] Member States shall ensure that administrative sanctions or other administrative measures aiming to end or mitigate breaches of the laws, regulations or administrative provisions transposing this Chapter or to address the causes of such breaches may be imposed on investment holding companies, mixed financial holding companies and mixed#activity holding companies, or their effective managers.

Editorial Information

- X1** Substituted by [Corrigendum to Directive \(EU\) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU \(Official Journal of the European Union L 314 of 5 December 2019\)](#).

Article 55

Assessment of third#country supervision and other supervisory techniques

1 Member States shall ensure that, where two or more investment firms that are subsidiaries of the same parent undertaking, the head office of which is in a third country, are not subject to effective supervision at group level, the competent authority assesses whether the investment firms are subject to supervision by the third#country supervisory authority which is equivalent to the supervision set out in this Directive and in Part One of Regulation (EU) 2019/2033.

2 Where the assessment referred to in paragraph 1 of this Article concludes that no such equivalent supervision applies, Member States shall allow for appropriate supervisory techniques which achieve the objectives of supervision in accordance with Article 7 or 8 of Regulation (EU) 2019/2033. Those supervisory techniques shall be decided by the competent authority which would be the group supervisor had the parent undertaking been established in the Union, after consulting the other competent authorities involved. Any measures taken pursuant to this paragraph shall be notified to the other competent authorities involved, to EBA and to the Commission.

3 The competent authority which would be the group supervisor had the parent undertaking been established in the Union may, in particular, require the establishment of an investment holding company or mixed financial holding company in the Union and apply Article

7 or 8 of Regulation (EU) 2019/2033 to that investment holding company or mixed financial holding company.

Article 56

Cooperation with third#country supervisory authorities

The Commission may submit recommendations to the Council, either at the request of a Member State or on its own initiative, for the negotiation of agreements with one or more third countries regarding the means of supervising compliance with the group capital test by the following investment firms:

- (a) investment firms the parent undertaking of which has its head office in a third country;
- (b) investment firms located in third countries, the parent undertaking of which has its head office in the Union.