

Council Directive of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (89/117/EEC)

COUNCIL DIRECTIVE

of 13 February 1989

on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents

(89/117/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 thereof,

Having regard to the proposal from the Commission⁽¹⁾, In cooperation with the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾

Whereas the establishment of a European internal market presupposes that the branches of credit institutions and financial institutions having their head offices in other Member States should be treated in the same way as branches of credit institutions and financial institutions having their head offices in the same Member State; whereas this means that, with regard to the publication of annual accounting documents, it is sufficient for the branches of such institutions having their head offices in other Member States to publish the annual accounting documents of their institution as a whole;

Whereas, as part of a further instrument of coordination of the disclosure requirements in respect of branches, provision is made for certain documents and particulars relating to branches established in a Member State which certain types of companies governed by the law of another Member State, including banks and other financial institutions, have to publish; whereas, as regards disclosure of accounting documents, reference is made to specific provisions to be laid down for banks and other financial institutions;

Whereas the present practice of some Member States of requiring the branches of credit institutions and financial institutions having their head offices outside these Member States to publish annual accounts relating to their own activities is no longer justified following the adoption of Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions⁽⁴⁾; whereas the publication of annual branch accounts cannot in any case provide the public, and in particular creditors, with an adequate view of the financial situation of the undertaking, since part of a whole cannot be viewed in isolation;

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.

Whereas, on the other hand, in view of the present level of integration, the need for certain information on the activities of branches established in a Member State by credit institutions and financial institutions having their head offices outside that Member State cannot be disregarded; whereas, nevertheless, the extent of such information should be limited so as to prevent distortions of competition;

Whereas, however, this Directive affects only disclosure requirements concerning annual accounts, and does not in any way affect the obligations of branches of credit institutions and financial institutions to provide information pursuant to other requirements, deriving, for example, from social legislation, with regard to employees' rights to information, host countries' rights of supervision over credit institutions or financial institutions and fiscal legislation and also for statistical purposes;

Whereas equality of competition means, with regard to the branches of credit institutions and financial institutions having their head offices in non-member countries, that such branches must, on the one hand, in publishing annual accounting documents, adhere to a standard which is the same as, or equivalent to, that of the Community, but, on the other hand, that such branches should not have to publish annual accounts relating to their own activities if they fulfil the abovementioned condition;

Whereas the equivalence, required under this Directive, of annual accounting documents of credit institutions and financial institutions having their head offices in non-member countries may lead to problems of assessment; whereas it is therefore necessary for this and other problems in the area covered by the Directive, and in particular in its implementation, to be dealt with by representatives of the Member States and of the Commission jointly in a Contact Committee; whereas, in order to keep the number of such committees within limits, such cooperation should be carried out within the framework of the Committee set up under Article 52 of Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies⁽⁵⁾, as last amended by Directive 84/569/EEC⁽⁶⁾; whereas, however, where problems relating to credit institutions are to be dealt with, the Committee should be appropriately constituted,

HAS ADOPTED THIS DIRECTIVE:

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 No C 230, 11. 9. 1986, p. 4.
- (2) OJ No C 319, 30. 11. 1987, p. 64 and OJ C 290, 14. 11. 1988, p. 66.
- (3) OJ No C 345, 21. 12. 1987, p. 73.
- (4) OJ No L 372, 31. 12. 1986, p. 1.
- (5) OJ No L 222, 14. 8. 1978, p. 11.
- (6) OJ No L 314, 4. 12. 1984, p. 28.