

Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council

CHAPTER II

SUPPLEMENTARY SUPERVISION

SECTION 2

FINANCIAL POSITION

Article 8

Intra-group transactions

1 Without prejudice to the sectoral rules, supplementary supervision of intra-group transactions of regulated entities in a financial conglomerate shall be exercised in accordance with the rules laid down in Article 9(2) to (4), in Section 3 of this Chapter, and in Annex II.

2 The Member States shall require regulated entities or mixed financial holding companies to report, on a regular basis and at least annually, to the coordinator all significant intra-group transactions of regulated entities within a financial conglomerate, in accordance with the rules laid down in this Article and in Annex II. Insofar as no definition of the thresholds referred to in the last sentence of the first paragraph of Annex II has been drawn up, an intra-group transaction shall be presumed to be significant if its amount exceeds at least 5 % of the total amount of capital adequacy requirements at the level of a financial conglomerate.

The necessary information shall be submitted to the coordinator by the regulated entity within the meaning of Article 1 which is at the head of the financial conglomerate or, where the financial conglomerate is not headed by a regulated entity within the meaning of Article 1, by the mixed financial holding company or by the regulated entity in the financial conglomerate identified by the coordinator after consultation with the other relevant competent authorities and with the financial conglomerate.

These intra-group transactions shall be subject to supervisory overview by the coordinator.

[^{F13} Pending further coordination of Union legislation, Member States may set quantitative limits and qualitative requirements, allow their competent authorities to set quantitative limits or qualitative requirements, or take other supervisory measures that would achieve the objectives of supplementary supervision, with regard to intra-group transactions of regulated entities within a financial conglomerate.]

4 Where a financial conglomerate is headed by a mixed financial holding company, the sectoral rules regarding intra-group transactions of the most important financial sector in

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the financial conglomerate shall apply to that sector as a whole, including the mixed financial holding company.

[^{F25} The ESA shall, through the Joint Committee, issue common guidelines aimed at the convergence of supervisory practices with regard to the application of supplementary supervision of intra-group transactions as provided for in paragraphs 1 to 4 of this Article. In order to avoid duplication, the guidelines shall ensure that the application of the supervisory tools, as provided for in this Article, is aligned to the application of Article 245 of Directive 2009/138/EC. They shall issue specific common guidelines on the application of paragraphs 1 to 4 of this Article to participations of the financial conglomerate in cases where national company law provisions obstruct the application of Article 14(2) of this Directive.]

Textual Amendments

- F1** Substituted by Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate (Text with EEA relevance).
- F2** Inserted by Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate (Text with EEA relevance).