

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 III

[^{F1}DELEGATED ACTS AND IMPLEMENTING MEASURES]

[^{F1}Article 20

Powers conferred on the Commission

The Commission shall be empowered to adopt delegated acts in accordance with Article 21c concerning the technical adaptations to be made to this Directive in the following areas:

- (a) a more precise formulation of the definitions laid down in Article 2 in order to take account of developments in financial markets for the application of this Directive;
- (b) the alignment of terminology and the framing of definitions in this Directive in accordance with subsequent Union acts on regulated entities and related matters;
- (c) a more precise definition of the calculation methods set out in Annex I in order to take account of developments on financial markets and prudential techniques.

Those measures shall not include the subject matter of the power delegated to and conferred on the Commission with regard to the items listed in Article 21a.]

Article 21

Committee

1 The Commission shall be assisted by a Financial Conglomerates Committee, hereinafter referred to as the ‘Committee’.

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[^{F3}4 The ESA, through the Joint Committee, may provide general guidelines as to whether the supplementary supervision arrangements of competent authorities in third countries are likely to achieve the objectives of the supplementary supervision as defined in this Directive, in relation to the regulated entities in a financial conglomerate, the head of which has its head office in a third country. The Joint Committee shall keep any such guidelines under review and take into account any changes to the supplementary supervision carried out by such competent authorities.]

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6 The Committee shall be kept informed by Member States of the principles they apply concerning the supervision of intra-group transactions and risk concentration.

Textual Amendments

- F2** Deleted 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).
- F3** Substituted by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (Text with EEA relevance).

^{F4}Article 21a

Technical standards

1 In order to ensure consistent harmonisation of this Directive, the ESA, in accordance with Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010 respectively may develop draft regulatory technical standards with regard to:

- a Article 2(11) in order to specify the application of Article 17 of Council Directive 78/660/EEC in the context of this Directive;
- b Article 2(17) in order to establish procedures or specify criteria for the determination of ‘relevant competent authorities’;
- c Article 3(5) in order to specify the alternative parameters for the identification of a financial conglomerate^{F1};
- [Article 6(2) in order to ensure a uniform format (with instructions) for, and determine ^{F5d} the frequency of and, where appropriate, the dates for reporting.]

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010 respectively.

[In order to ensure consistent application of Articles 2, 7 and 8 and Annex II, the ESA ^{F5d}shall, through the Joint Committee, develop draft regulatory technical standards to establish a more precise formulation of the definitions set out in Article 2 and to coordinate the provisions adopted pursuant to Articles 7 and 8 and Annex II.

The Joint Committee shall submit those draft regulatory technical standards to the Commission by 1 January 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.]

2 In order to ensure uniform conditions of application of this Directive, the ESA, in accordance with Articles 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No

1094/2010, and of Regulation (EU) No 1095/2010 respectively may develop draft implementing technical standards with regard to:

- [^{F6}a Article 6(2) in order to ensure uniform conditions of application of the calculation methods listed in Annex I part II, but without prejudice to Article 6(4);]
- b Article 7(2) in order to ensure uniform conditions of application of the procedures for including the items within the scope of the definition of ‘risk concentrations’ in the supervisory overview referred to in the second subparagraph of Article 7(2);
- c Article 8(2) in order to ensure uniform conditions of application of the procedures for including the items within the scope of the definition of ‘intra group transactions’ in the supervisory overview referred to in the third subparagraph of Article 8(2).

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010 respectively.

[^{F7}3 In order to ensure consistent application of the calculation methods listed in Annex I, Part II, of this Directive, in conjunction with Article 49(1) of Regulation (EU) No 575/2013 and Article 228(1) of Directive 2009/138/EC, but without prejudice to Article 6(4) of this Directive, the ESAs shall, through the Joint Committee, develop draft regulatory technical standards with regard to Article 6(2) of this Directive.

The ESA shall submit those draft regulatory technical standards to the Commission by five months before the date of application referred to in Article 309(1) of Directive 2009/138/EC.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.]]

Textual Amendments

- F4** Inserted by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (Text with EEA relevance).
- F5** 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).
- F6** Deleted by 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).
- F7** Substituted by 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).

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l^{F5} Article 21b

Common Guidelines

The ESA shall, through the Joint Committee, issue the common guidelines referred to in Article 3(8), Article 7(5), Article 8(5), Article 9(6), the third subparagraph of Article 11(1), Article 12b and Article 21(4) in accordance with the procedure laid down in Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

Textual Amendments

- F5** 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 \(Text with EEA relevance\).](#)

Article 21c

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The delegation of power referred to in Article 20 shall be conferred on the Commission for a period of four years from 9 December 2011. The Commission shall draw up a report in respect of the delegated power at the latest six months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Article 20 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or on a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Article 20 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of the notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.]

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Textual Amendments

- F5** 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 \(Text with EEA relevance\).](#)

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 \(Text with EEA relevance\).](#)