

Directive 2006/48/EC of the European Parliament and of the council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) (Text with EEA relevance) (repealed)

### TITLE III

## **PROVISIONS CONCERNING THE FREEDOM OF ESTABLISHMENT AND THE FREEDOM TO PROVIDE SERVICES**

### *Section 2*

#### ***Financial institutions***

#### *Article 24*

1 The Member States shall provide that the activities listed in Annex I may be carried on within their territories, in accordance with Articles 25, 26(1) to (3), 28(1) and (2) and 29 to 37, either by the establishment of a branch or by way of the provision of services, by any financial institution from another Member State, whether a subsidiary of a credit institution or the jointly-owned subsidiary of two or more credit institutions, the memorandum and Articles of association of which permit the carrying on of those activities and which fulfils each of the following conditions:

- a the parent undertaking or undertakings shall be authorised as credit institutions in the Member State by the law of which the financial institution is governed;
- b the activities in question shall actually be carried on within the territory of the same Member State;
- c the parent undertaking or undertakings shall hold 90 % or more of the voting rights attaching to shares in the capital of the financial institution;
- d the parent undertaking or undertakings shall satisfy the competent authorities regarding the prudent management of the financial institution and shall have declared, with the consent of the relevant home Member State competent authorities, that they jointly and severally guarantee the commitments entered into by the financial institution; and
- e the financial institution shall be effectively included, for the activities in question in particular, in the consolidated supervision of the parent undertaking, or of each of the parent undertakings, in accordance with Title V, Chapter 4, Section 1, in particular for the purposes of the minimum own funds requirements set out in Article 75 for the control of large exposures and for purposes of the limitation of holdings provided for in Articles 120 to 122.

Compliance with these conditions shall be verified by the competent authorities of the home Member State and the latter shall supply the financial institution with a certificate of compliance which shall form Part of the notification referred to in Articles 25 and 28.

The competent authorities of the home Member State shall ensure the supervision of the financial institution in accordance with Articles 10(1), 19 to 22, 40, 42 to 52 and 54.

2 If a financial institution as referred to in the first subparagraph of paragraph 1 ceases to fulfil any of the conditions imposed, the home Member State shall notify the competent authorities of the host Member State and the activities carried on by that financial institution in the host Member State shall become subject to the legislation of the host Member State.

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3 Paragraphs 1 and 2 shall apply mutatis mutandis to subsidiaries of a financial institution as referred to in the first subparagraph of paragraph 1.