

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)

## TITLE VII

### PRUDENTIAL SUPERVISION

#### CHAPTER 3

#### *Supervision on a consolidated basis*

##### *Section II*

#### *Financial holding companies, mixed financial holding companies and mixed-activity holding companies*

##### *Article 127*

#### **Assessment of equivalence of third countries' consolidated supervision**

1 Where an institution, the parent undertaking of which is an institution or a financial holding company or mixed financial holding company, the head office of which is in a third country, is not subject to consolidated supervision under Articles 111, the competent authorities shall assess whether the institution is subject to consolidated supervision by a third-country supervisory authority which is equivalent to that governed by the principles set out in this Directive and the requirements of Part One, Title II, Chapter 2 of Regulation (EU) No 575/2013.

The assessment shall be carried out by the competent authority which would be responsible for consolidated supervision if paragraph 3 were to apply, at the request of the parent undertaking or of any of the regulated entities authorised in the Union or on its own initiative. That competent authority shall consult the other competent authorities involved.

2 The Commission may request the European Banking Committee to give general guidance as to whether the consolidated supervision arrangements of supervisory authorities in third countries are likely to achieve the objectives of consolidated supervision as set out in this Chapter, in relation to institutions the parent undertaking of which has its head office in a third country. The European Banking Committee shall keep any such guidance under review and take into account any changes to the consolidated supervision arrangements applied by such competent authorities. EBA shall assist the Commission and the European Banking Committee in carrying out those tasks, including as to assessing whether such guidance should be updated.

The competent authority carrying out the assessment referred to in the first subparagraph of paragraph 1 shall take into account any such guidance. For that purpose, the competent authority shall consult EBA before adopting a decision.

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3 In the absence of such equivalent supervision, Member States shall apply this Directive and Regulation (EU) No 575/2013 to the institution *mutatis mutandis* or shall allow their competent authorities to apply other appropriate supervisory techniques which achieve the objectives of supervision on a consolidated basis of institutions.

Those supervisory techniques shall, after consulting the other competent authorities involved, be agreed upon by the competent authority which would be responsible for consolidated supervision.

Competent authorities may in particular require the establishment of a financial holding company or mixed financial holding company which has its head office in the Union, and apply the provisions on consolidated supervision to the consolidated position of that financial holding company or the consolidated position of the institutions of that mixed financial holding company.

The supervisory techniques shall be designed to achieve the objectives of consolidated supervision as set out in this Chapter and shall be notified to the other competent authorities involved, to EBA and to the Commission.