

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 4

Capital Buffers

Section I

Buffers

Article 128

Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (1) 'capital conservation buffer' means the own funds that an institution is required to maintain in accordance with Article 129;
- (2) 'institution-specific countercyclical capital buffer' means the own funds that an institution is required to maintain in accordance with Article 130;
- (3) 'G-SII buffer' means the own funds that are required to be maintained in accordance with Article 131(4);
- (4) 'O-SII buffer' means the own funds that may be required to be maintained in accordance with Article 131(5);
- (5) 'systemic risk buffer' means the own funds that an institution is or may be required to maintain in accordance with Article 133;
- (6) 'combined buffer requirement' means the total Common Equity Tier 1 capital required to meet the requirement for the capital conservation buffer extended by the following, as applicable:
 - (a) an institution-specific countercyclical capital buffer;
 - (b) a G-SII buffer;
 - (c) an O-SII buffer;
 - (d) a systemic risk buffer;

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- (7) 'countercyclical buffer rate' means the rate that institutions must apply in order to calculate their institution-specific countercyclical capital buffer, and that is set in accordance with Article 136, Article 137 or by a relevant third-country authority, as the case may be;
- (8) 'domestically authorised institution' means an institution that has been authorised in the Member State for which a particular designated authority is responsible for setting the countercyclical buffer rate;
- (9) 'buffer guide' means a benchmark buffer rate calculated in accordance with Article 135(1).

[^{F1}Institutions shall not use Common Equity Tier 1 capital that is maintained to meet the combined buffer requirement referred to in point (6) of the first paragraph of this Article, to meet any of the requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013, the additional own funds requirements imposed pursuant to Article 104a of this Directive to address risks other than the risk of excessive leverage, and the guidance communicated in accordance with Article 104b(3) of this Directive to address risks other than the risk of excessive leverage.

Institutions shall not use Common Equity Tier 1 capital that is maintained to meet one of the elements of its combined buffer requirement to meet the other applicable elements of its combined buffer requirement.

Institutions shall not use Common Equity Tier 1 capital that is maintained to meet the combined buffer requirement referred to in point (6) of the first paragraph of this Article to meet the risk-based components of the requirements set out in Articles 92a and 92b of Regulation (EU) No 575/2013 and in Articles 45c and 45d of Directive 2014/59/EU.]

This Chapter shall not apply to investment firms that are not authorised to provide the investment services listed in points 3 and 6 of Section A of Annex I to Directive 2004/39/EC.

Textual Amendments

- F1** Inserted by [Directive \(EU\) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures \(Text with EEA relevance\).](#)