

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

[^{F1}Article 129

Requirement to maintain a capital conservation buffer

1 In addition to the Common Equity Tier 1 capital that is maintained to meet any of the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013, Member States shall require institutions to maintain a capital conservation buffer of Common Equity Tier 1 capital equal to 2,5 % of their total risk exposure amount calculated in accordance with Article 92(3) of that Regulation on an individual and on a consolidated basis, as applicable in accordance with Title II of Part One of that Regulation.

2 By way of derogation from paragraph 1, a Member State may exempt small and medium-sized investment firms from complying with the requirements set out in paragraph 1 if such an exemption does not threaten the stability of the financial system of that Member State.

Decisions on the application of the exemption referred to in the first subparagraph shall be fully reasoned, shall include an explanation as to why the exemption does not threaten the stability of the financial system of the Member State and shall contain the exact definition of the small and medium-sized investment firms which are to be exempted.

Member States which decide to apply the exemption referred to in the first subparagraph shall notify the ESRB thereof. The ESRB shall forward such notifications to the Commission, to EBA and to the competent and designated authorities of the Member States concerned without delay.

3 For the purposes of paragraph 2, Member States shall designate an authority to be responsible for the application of this Article. That authority shall be the competent authority or the designated authority.

4 For the purposes of paragraph 2, investment firms shall be categorised as small or medium-sized in accordance with Commission Recommendation 2003/361/EC⁽⁴⁾.

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5 Where an institution fails to fully meet the requirement set out in paragraph 1 of this Article, it shall be subject to the restrictions on distributions set out in Article 141(2) and (3).]

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Textual Amendments

- F1** Substituted 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 \(Text with EEA relevance\)](#).

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- (1) [^{F1}Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).]

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Textual Amendments

- F1** Substituted 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 \(Text with EEA relevance\).](#)