

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 I

#### *Principles of prudential supervision*

##### *Section III*

#### *Duty of persons responsible for the legal control of annual and consolidated accounts*

##### *Article 63*

#### **Duty of persons responsible for the legal control of annual and consolidated accounts**

1 Member States shall provide that any person authorised in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts<sup>(1)</sup> and performing in an institution the tasks described in Article 51 of Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies<sup>(2)</sup>, Article 37 of Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts<sup>(3)</sup> Article 73 of Directive 2009/65/EC, or any other statutory task, shall at least have a duty to report promptly to the competent authorities any fact or decision concerning that institution of which that person has become aware while carrying out that task, which is liable to:

- a constitute a material breach of the laws, regulations or administrative provisions which lay down the conditions governing authorisation or which specifically govern pursuit of the activities of institutions;
- b affect the ongoing functioning of the institution;
- c lead to refusal to certify the accounts or to the expression of reservations.

Member States shall provide at least that a person referred to in the first subparagraph shall also have a duty to report any fact or decision of which that person becomes aware in the course of carrying out a task as described in the first subparagraph in an undertaking having close links resulting from a control relationship with the institution within which he is carrying out that task.

[<sup>F1</sup>Member States shall provide that competent authorities may require the replacement of a person referred to in the first subparagraph if that person acts in breach of his or her obligations under the first subparagraph.]

2 The disclosure in good faith to the competent authorities, by persons authorised within the meaning of Directive 2006/43/EC, of any fact or decision referred to in paragraph 1 shall

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not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision and shall not involve such persons in any liability. Such disclosure shall be made simultaneously to the management body of the institution unless there are compelling reasons not to do so.

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

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- (1) [OJ L 157, 9.6.2006, p. 87.](#)
- (2) [OJ L 222, 14.8.1978, p. 11.](#)
- (3) [OJ L 193, 18.7.1983, p. 1.](#)