

**COMMISSION DELEGATED REGULATION (EU) No 524/2014****of 12 March 2014****supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the information that competent authorities of home and host Member States supply to one another****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 <sup>(1)</sup>, and in particular Article 50(6) thereof,

Whereas:

- (1) In order to ensure efficient cooperation between competent authorities of home and host Member States information exchange should be two-way, within the respective supervisory competences of those authorities. It is therefore necessary to specify which information concerning institutions, and where relevant, concerning the functioning of their branches, should be provided by the competent authorities of the home Member State to the competent authorities of the host Member State, as well as which information regarding branches needs to be provided by competent authorities of host Member States to the competent authorities of the home Member State.
- (2) Exchange of information between competent authorities of home and host Member States should be seen in a wider context of supervision of cross-border banking groups and, where relevant, information could be provided at the consolidated level. In particular, if an institution has an ultimate parent undertaking in the Member State where it has its head office, and the competent authority concerned is also the consolidating supervisor, possibilities should be made available to provide information at the consolidated level rather than at the level of an institution operating through a branch. However, in this case the competent authority should notify competent authorities of host Member States that the information is provided at the consolidated level.
- (3) Information exchange between competent authorities of home and host Member States is not limited to the types of information specified in Article 50 of Directive 2013/36/EU, and therefore to the types of information specified in this Regulation. In particular, Articles 35, 36, 39, 43 and 52 of Directive 2013/36/EU set out a separate provision for exchange of information regarding on-the-spot verification of branches, notifications of the exercise of the right of establishment and freedom to provide services, and measures, including precautionary ones, taken by competent authorities in relation to branches and their parent undertakings. This Regulation should therefore not specify exchange of information requirements in those areas.
- (4) It is necessary to laid down requirements for the information to be exchanged between competent authorities of home and host Member States in order to harmonise regulatory and supervisory practices across the Union. This information should cover all the areas specified in Article 50 of Directive 2013/36/EU, namely management and ownership, including business lines such as those referred to in Article 317 of Regulation (EU) No 575/2013 of the European Parliament and of the Council <sup>(2)</sup>, liquidity and findings pertaining to liquidity supervision, solvency, deposit guarantee, large exposures, systemic risk, administrative and accounting procedures, and internal control mechanisms. In order to facilitate the monitoring of institutions, the competent authorities of host and home Member States should keep each other informed about situations of non-compliance with national or Union law

<sup>(1)</sup> OJ L 176, 27.6.2013, p. 338.<sup>(2)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

as well as about supervisory measures and sanctions imposed on institutions. Furthermore, additional information regarding leverage and preparation for emergency situations should be included into the scope of information to be exchanged between competent authorities of home and host Member States so that the latter are able to monitor institutions in an efficient way.

- (5) Where a liquidity stress affects or is expected to affect an institution, the competent authorities of host Member States need to have a clear understanding of the situation in order to be able to take precautionary measures under the conditions set out in Article 43 of Directive 2013/36/EU. This Regulation should therefore provide clear rules on what types of information have to be exchanged between authorities when a liquidity stress occurs. It is also necessary to specify the information to be exchanged so that authorities should be prepared well in advance for emergency situations such as those referred to in Article 114(1) of Directive 2013/36/EU.
- (6) Given the differences in the size, complexity and significance of branches operating in host Member States, it is important to apply the principle of proportionality in the exchange of information. To this end, a more extensive range of information should be exchanged between home and host competent authorities where the competent authorities in host Member States are responsible for branches identified as significant in accordance with Article 51 of Directive 2013/36/EU.
- (7) To ensure that the relevant information is exchanged within reasonable limits while avoiding situations where the competent authorities of a home Member State are obliged to forward any information about an institution, regardless of its nature and importance, to all competent authorities of host Member States, in specific cases, only information that is relevant to a particular branch should be transmitted exclusively to the competent authorities in charge of supervising this branch. For similar purposes, in a number of specific areas, only information revealing situations of non-compliance should be exchanged between competent authorities of home and host Member States, meaning that no information should be exchanged where the institution is in conformity with national and Union law.
- (8) This Regulation should also address exchange of information in relation to the carrying out of activities in a host Member State by way of the provision of cross-border services. Given the nature of cross-border services, competent authorities of host Member States are confronted with a lack of information regarding operations being conducted in their jurisdictions, and therefore it is essential to specify in detail what information needs to be exchanged for the purposes of safeguarding financial stability and monitoring conditions of authorisations, in particular monitoring whether the institution provides services in accordance with the notifications provided. This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority (EBA) to the Commission.
- (9) EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(1)</sup>,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### *Article 1*

#### **Subject matter and scope**

1. This Regulation specifies the information that the competent authorities of host and home Member States shall supply to one another in accordance with Article 50 of Directive 2013/36/EU.
2. It lays down rules on the information to be exchanged in relation to an institution which operates, through a branch or in the exercise of the freedom to provide services, in one or more Member States other than that in which its head office is situated.

<sup>(1)</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

*Article 2***Information on a consolidated basis**

Where the ultimate parent undertaking of an institution is set up in the same Member State as that in which the institution has its head office, and the competent authority of the institution's home Member State is also the consolidating supervisor, that competent authority shall, where appropriate in accordance with the requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU, provide information regarding this institution at the consolidated level and shall inform the competent authorities of host Member States that the information is provided at that level.

## CHAPTER II

**INFORMATION EXCHANGE REGARDING INSTITUTIONS OPERATING THROUGH A BRANCH***Article 3***Information concerning management and ownership**

1. The competent authorities of the home Member State shall provide to the competent authorities of a host Member State the organisational structure of an institution including its business lines and its relationships to entities within the group.
2. In addition to information specified in paragraph 1, the competent authorities of the home Member State shall provide to the competent authorities of a host Member State which supervise a significant branch, as referred to in Article 51 of Directive 2013/36/EU, the following information in relation to an institution:
  - (a) the structure of the management body and senior management, including the allocation of responsibility for the oversight of a branch;
  - (b) the list of shareholders and members with qualifying holdings based on information provided by the credit institution in accordance with Article 26(1) of Directive 2013/36/EU.

*Article 4***Information concerning liquidity and supervisory findings**

1. The competent authorities of the home Member State shall provide to the competent authorities of a host Member State the following information:
  - (a) any material deficiencies in an institution's liquidity risk management which are known to the competent authorities and which may affect branches, any related supervisory measures which have been taken in relation to those deficiencies, and the extent of the institution's compliance with those supervisory measures;
  - (b) the overall assessment carried out by the competent authorities of the home Member State of an institution's liquidity risk profile and risk management, in particular in relation to a branch;
  - (c) an institution's ratios indicating its liquidity and stable funding position at the national or Union level in the domestic currency of the institution's home Member State and in all other currencies which are material for the institution;
  - (d) the components of an institution's liquidity buffer;
  - (e) the degree of asset encumbrance of an institution;
  - (f) the ratio of an institution's loans to its deposits;
  - (g) any domestic liquidity ratios that apply to an institution as a part of macro-prudential policy measures by the competent authorities or by the designated authority whether as binding requirements, guidelines, recommendations, warnings or otherwise, including the definitions of those ratios;
  - (h) any specific liquidity requirements applied in accordance with Article 105 of Directive 2013/36/EU;
  - (i) any obstacles to cash and collateral transfer to or from branches of an institution.

2. Where the competent authorities have waived in full or in part the application of Part Six of Regulation (EU) No 575/2013 to an institution in accordance with Article 8 of that Regulation, the competent authorities of the home Member State shall provide the information referred to in paragraph 1 at the sub-consolidated level or, in accordance with Article 2 of this Regulation, at the consolidated level.

3. In addition to the information specified in paragraph 1, the competent authorities of the home Member State shall provide to the competent authorities of a host Member State which supervise a significant branch the following information:

- (a) the liquidity and funding policy of the institution, including descriptions of the funding arrangements for its branches, any intra-group support arrangements, and procedures for centralised cash pooling;
- (b) the liquidity and funding contingency plans of the institution, including information on the assumed stress scenarios.

#### Article 5

#### Information concerning solvency

1. The competent authorities of the home Member State shall inform the competent authorities of a host Member State whether an institution is compliant with the following requirements:

- (a) the own fund requirements laid down in Article 92 of Regulation (EU) No 575/2013, taking into account any measures adopted or recognised in accordance with Article 458 of that Regulation and, where relevant, taking into account the transitional arrangements laid down in Part Ten of that Regulation;
- (b) any additional own fund requirements imposed in accordance with Article 104 of Directive 2013/36/EU;
- (c) the capital buffer requirements set out in Chapter 4 of Title VII of Directive 2013/36/EU.

2. In addition to the information specified in paragraph 1, the competent authorities of the home Member State shall provide to the competent authorities of a host Member State which supervise a significant branch of an institution which is subject to own funds requirements the following information:

- (a) the institution's Common Equity Tier 1 capital ratio, within the meaning of Article 92(2)(a) of Regulation (EU) No 575/2013;
- (b) the institution's Tier 1 capital ratio, within the meaning of Article 92(2)(b) of Regulation (EU) No 575/2013;
- (c) the institution's total capital ratio, within the meaning of Article 92(2)(c) of Regulation (EU) No 575/2013;
- (d) the institution's total risk exposure amount, within the meaning of Article 92(3) of Regulation (EU) No 575/2013;
- (e) the own funds requirements applicable in the home Member State in accordance with Article 92 of Regulation (EU) No 575/2013, taking into account any measures adopted or recognised in accordance with Article 458 of that Regulation and, where relevant, taking into account the transitional arrangements laid down in Part Ten of that Regulation;
- (f) the level of the capital conservation buffer that the institution is required to maintain in accordance with Article 129 of Directive 2013/36/EU;
- (g) the level of any institution-specific countercyclical capital buffer that the institution is required to maintain in accordance with Article 130 of Directive 2013/36/EU;
- (h) the level of any systemic risk buffer that the institution is required to maintain in accordance with Article 133 of Directive 2013/36/EU;
- (i) the level of any G-SII buffer or O-SII buffer that the institution is required to maintain in accordance with Article 131(4) and (5) of Directive 2013/36/EU;
- (j) the level of any additional own funds requirements imposed in accordance with point (a) of Article 104(1) of Directive 2013/36/EU and of any other requirements imposed relating to the institution's solvency in accordance with that Article.

3. Where the application of the relevant provisions of Regulation (EU) No 575/2013 has been waived in accordance with Articles 7, 10 or 15 of that Regulation, or the requirements set out in Articles 10 and 12 and Article 13(1) of Directive 2013/36/EU have been waived in accordance with Article 21 of that Directive 2013/36/EU, or an institution has received permission to apply the treatment referred to in Article 9(1) of Regulation (EU) No 575/2013, the competent authorities of the home Member State shall provide the information set out in paragraph 2 at the sub-consolidated level or, in accordance with Article 2 of this Regulation, at the consolidated level.

#### Article 6

##### **Information concerning deposit-guarantee schemes**

1. The competent authorities of the home Member State shall inform the competent authorities of a host Member State of the name of the deposit-guarantee scheme to which an institution belongs in accordance with Article 3(1) of Directive 94/19/EC of the European Parliament and of the Council <sup>(1)</sup>.

2. The competent authorities of the home Member State shall provide to the competent authorities of a host Member State the following information in relation to the deposit-guarantee scheme referred to in paragraph 1:

- (a) the maximum coverage of the deposit-guarantee scheme per eligible depositor;
- (b) the scope of coverage and the types of deposits covered;
- (c) any exclusion from the coverage, including products and types of depositors;
- (d) funding arrangements of the deposit guarantee scheme, in particular whether the scheme is funded *ex-ante* or *ex-post*, and the volume of the scheme;
- (e) contact details of the administrator of the scheme.

3. The information set out in paragraph 2 shall only be provided to the competent authorities of a host Member State once in relation to each deposit-guarantee scheme concerned. Where there is a change in the information provided, the competent authorities of the home Member State shall provide updated information to competent authorities of a host Member State.

#### Article 7

##### **Information concerning limitation of large exposures**

The competent authorities of the home Member State shall provide information to the competent authorities of a host Member State regarding any situation in respect of which the competent authorities of the home Member State have determined that an institution has not complied with applicable large exposures limits and requirements laid down in Part Four of Regulation (EU) No 575/2013. The information to be provided shall explain the situation and the supervisory measures taken or planned to be taken.

#### Article 8

##### **Information regarding systemic risk posed by institution**

The competent authorities of the home Member State shall inform the competent authorities of a host Member State where an institution has been designated as a global systemically important institution (G-SII) or as another systemically important institution (O-SII) in accordance with Article 131(1) of Directive 2013/36/EU. Where the institution has been identified as a G-SII, the information provided shall include the sub-category to which it is allocated.

<sup>(1)</sup> Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (OJ L 135, 31.5.1994, p. 5).

*Article 9***Information concerning administrative and accounting procedures**

1. The competent authorities of the home Member State shall provide information to the competent authorities of a host Member State regarding any situation where the competent authorities of the home Member State have determined that an institution has not complied with applicable accounting standards and procedures to which the institution is subject in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council <sup>(1)</sup>. The information to be provided shall explain the situation and the supervisory measures taken or planned to be taken.
2. Where the information specified in paragraph 1 is relevant to a particular branch only, the competent authorities of the home Member State shall only provide the information to the competent authorities of the host Member State in which that branch is established.

*Article 10***Information concerning internal control mechanisms**

1. The competent authorities of the home Member State shall provide information to the competent authorities of a host Member State regarding any situation in respect of which the competent authorities of the home Member States have determined that an institution has not complied with requirements concerning internal control mechanisms, including risk management, risk control and internal audit arrangements pursuant to Regulation (EU) No 575/2013 and Directive 2013/36/EU. The information to be provided shall explain the situation and the supervisory measures taken or planned to be taken.
2. Where the information specified in paragraph 1 is relevant to a particular branch only, the competent authorities of the home Member State shall only provide the information to the competent authorities of the host Member State in which that branch is established.

*Article 11***Information concerning leverage**

1. The competent authorities of the home Member State shall provide information to the competent authorities of a host Member State regarding any situation in respect of which the competent authorities of the home Member States have determined that an institution has not complied with requirements concerning leverage ratios pursuant to Part Seven of Regulation (EU) No 575/2013 and, where relevant, taking into account the transitional provisions in Article 499 of that Regulation. The information to be provided shall explain the situation and the supervisory measures taken or planned to be taken.
2. The competent authorities of the home Member State shall provide the competent authorities of a host Member State with all information disclosed by an institution in accordance with Article 451 of Regulation (EU) No 575/2013 regarding its leverage ratio and its management of the risk of excessive leverage.

*Article 12***Information concerning general non-compliance**

1. The competent authorities of the home Member State shall provide information to competent authorities of a host Member State regarding any situations in respect of which the competent authorities of the home Member State have determined that an institution has not complied with national or Union law or with requirements, in relation to the prudential supervision or market conduct supervision of institutions, including the requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU, other than the requirements referred to in Articles 3 to 11 of this Regulation. The information to be provided shall explain the situation and the supervisory measures taken or planned to be taken.

<sup>(1)</sup> Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

2. Where the information specified in paragraph 1 is relevant to a particular branch only, the competent authorities of the home Member State shall only provide the information to the competent authorities of the host Member State in which that branch is established.

#### Article 13

##### **Communication of supervisory measures and sanctions**

1. The competent authorities of the home Member State shall inform the competent authorities of a host Member State of any of the following penalties or measures which have been imposed on or applied to an institution and which affect the operations of a branch:

- (a) administrative penalties imposed or other administrative measures applied pursuant to Articles 64 to 67 of Directive 2013/36/EU;
- (b) supervisory measures imposed pursuant to Articles 104 or 105 of Directive 2013/36/EU;
- (c) criminal penalties imposed which relate to breaches of Regulation (EU) No 575/2013 or of the national provisions transposing Directive 2013/36/EU.

2. Where the information specified in paragraph 1 is relevant to a particular branch only, the competent authorities of the home Member State is only required to provide the information to the competent authorities of the host Member State in which that branch is established.

#### Article 14

##### **Information regarding preparation for emergency situations**

The competent authorities of the home Member State and the competent authorities of a host Member State shall exchange information regarding preparations for emergency situations. In particular they shall keep one another informed of the following:

- (a) the emergency contact details of persons within the competent authorities who are responsible for handling emergency situations;
- (b) the communication procedures that shall apply in emergency situations.

#### Article 15

##### **Information from authorities of a host Member State**

Without prejudice to the information exchange requirements following inspections of branches pursuant to Article 52(3) of Directive 2013/36/EU, the competent authorities of a host Member State shall provide the competent authorities of the home Member State with the following information:

- (a) a description of any situation in respect of which the competent authorities have determined that an institution has not complied with national or Union law or with requirements, in relation to the prudential supervision or market conduct supervision of institutions, including the requirements of Regulation (EU) No 575/2013 and of the national provisions transposing Directive 2013/36/EU, together with an explanation of the supervisory measures taken or planned to be taken to address the non-compliance;
- (b) a description of any non-compliance with the conditions under which, in the interest of the general good, the activities of the branch shall be carried out in the host Member State;
- (c) any identification of systemic risk posed by the branch or its activities in the host Member State, including any assessment of the likely impact of a suspension or closure of the operations of the branch on the following:
  - (i) systemic liquidity;
  - (ii) payment systems;
  - (iii) clearing and settlement systems;

- (d) the market share of the branch where it exceeds 2 % of the total market in the host Member State in either of the following categories:
  - (i) deposits;
  - (ii) loans;
- (e) any obstacles to cash and collateral transfer to or from the branch.

## CHAPTER III

**INFORMATION EXCHANGE REGARDING CROSS-BORDER SERVICE PROVIDERS***Article 16***Information regarding cross-border service providers**

Upon receiving a request for information from the competent authorities of a host Member State in relation to an institution carrying out its activities by way of the provision of services in that host Member State, the competent authorities of the home Member State shall provide the following information:

- (a) any situation in respect of which the competent authorities of the home Member State have determined that the institution has not complied with any national or Union law or with requirements, in relation to the prudential supervision or market conduct supervision of institutions, including the requirements of Regulation (EU) No 575/2013 and of the national provisions transposing Directive 2013/36/EU, together with an explanation of the supervisory measures taken or planned to be taken to address the non-compliance;
- (b) the volume of deposits taken from residents of the host Member State;
- (c) the volume of loans provided to the residents of the host Member State;
- (d) in relation to the activities listed in Annex I to Directive 2013/36/EU which the institution has notified its wish to carry out in the host Member State by way of provision of services:
  - (i) the form in which the institution carries out the activities;
  - (ii) the activities which are the most significant in terms of the institution's activities in the host Member State;
  - (iii) the confirmation whether the activities identified as core business activities in the notification provided by the institution pursuant to Article 39 of Directive 2013/36/EU are being performed by an institution.

## CHAPTER IV

**INFORMATION EXCHANGE REGARDING INSTITUTIONS OPERATING THROUGH A BRANCH IN CASE OF LIQUIDITY STRESS AFFECTING THE INSTITUTION OR THE BRANCH ITSELF***Article 17***Scope of information exchange in liquidity stress**

1. If the competent authorities of the home Member State consider that a liquidity stress has occurred, or is reasonably expected to occur, with respect to an institution they shall immediately notify the competent authorities of a host Member State and provide the information set out in paragraph 3.
2. If the competent authorities of a host Member State consider that a liquidity stress has occurred, or is reasonably expected to occur, with respect to a branch established in that Member State, they shall immediately notify the competent authorities of the home Member State and provide the information set out in paragraph 3.
3. The competent authorities shall provide the following information:
  - (a) a description of the situation that has occurred, including the underlying cause of the stress situation, the expected impact of the liquidity stress on the institution, and developments concerning intra-group transactions;
  - (b) an explanation of the measures that have been taken or are planned to be taken, whether by the competent authorities or by the institution, including any requirements imposed upon the institution by the competent authorities to mitigate the liquidity stress;

- (c) the results of assessments of the systemic consequences of the liquidity stress;
- (d) the latest available quantitative information regarding liquidity specified in points (c) to (h) of Article 4(1).

CHAPTER V

**FINAL PROVISIONS**

*Article 18*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 March 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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