

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/461****of 16 March 2017****laying down implementing technical standards with regard to common procedures, forms and templates for the consultation process between the relevant competent authorities for proposed acquisitions of qualifying holdings in credit institutions as referred to in Article 24 of Directive 2013/36/EU of the European Parliament and of the Council****(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 22(9) thereof,

Whereas:

- (1) It is appropriate to set out common procedures, forms and templates to ensure the accurate assessment by competent authorities of notifications of proposed direct or indirect acquisitions or increases of qualifying holdings in credit institutions where the proposed acquirer is a supervised entity in another Member State or sector, the parent undertaking of such supervised entity or the natural or legal person controlling such supervised entity. In those cases, the relevant competent authorities should consult and provide each other with the requested information and any other essential information.
- (2) Pursuant to Article 14(2) of Directive 2013/36/EU, the consultation process referred to in Article 24 of that Directive also applies to the assessment of shareholders and members of a credit institution for the purposes of the granting of authorisation to commence the activity of a credit institution. The common procedures, forms and templates should therefore also enable the consultation between relevant competent authorities where the assessment of shareholders or members with qualifying holdings is conducted as part of the assessment of applications for the authorisation of credit institutions.
- (3) To facilitate the cooperation between competent authorities and ensure efficiency in their exchange of information, competent authorities should designate dedicated contact points specifically for the purpose of the consultation process referred to in Article 24 of Directive 2013/36/EU and make such information publicly available on their websites.
- (4) Consultation procedures containing clear timing requirements should be set up to ensure the timely and efficient cooperation between competent authorities.
- (5) Those consultation procedures should also ensure that competent authorities cooperate and work towards the improvement of the consultation process by promoting, where appropriate, feedback on the quality and relevance of the information received.
- (6) This Regulation is based on the draft implementing technical standards submitted by the European Banking Authority ('EBA') to the Commission.
- (7) EBA has conducted open public consultations on the draft implementing 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>(2)</sup>,

<sup>(1)</sup> OJ L 176, 27.6.2013, p. 338.

<sup>(2)</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).

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter**

This Regulation lays down the common procedures, forms and templates for the consultation process referred to in Article 24 of Directive 2013/36/EU between the following:

- (a) the competent authority of an existing credit institution in which a qualifying holding is proposed to be acquired or increased or which is responsible for providing the authorisation to commence the activity of a credit institution (the 'requesting authority');
- (b) the relevant competent authority of the proposed acquirer, shareholder or member, where such proposed acquirer, shareholder or member falls under one of the categories referred to in points (a), (b) and (c) of Article 24(1) of Directive 2013/36/EU (the 'requested authority').

#### *Article 2*

##### **Designated contact points**

For the purpose of the consultation process set out in Article 24 of Directive 2013/36/EU, the relevant competent authorities shall designate, by way of a single address of a dedicated department or mailbox, contact points for transmitting consultation notices and other communication in accordance with this Regulation and shall make those contact points publicly available on their websites.

#### *Article 3*

##### **Consultation notice**

1. The requesting authority shall send a consultation notice to the requested authority as soon as possible after receipt of a notification referred to in Article 22(1) of Directive 2013/36/EU and, in any event, no later than 10 working days after the commencement of the assessment period referred to in the second subparagraph of Article 22(2) of that Directive.
2. Where the assessment provided for in Article 23(1) of Directive 2013/36/EU is conducted as part of the assessment of an application for the authorisation of a credit institution to commence its activities, the requesting authority shall send a consultation notice to the requested authority as soon as possible after receipt of such an application and, in any event, no later than 10 working days after the receipt of the complete information referred to in Article 15 of Directive 2013/36/EU.
3. The requesting authority shall send the consultation notices referred to in paragraphs 1 and 2 in writing by post, facsimile or secure electronic means and address them to the designated contact point of the requested authority.
4. The requesting authority shall send the consultation notices referred to in paragraphs 1 and 2 by completing the template set out in Annex I, specifying the main details of the proposed holding and of the information that the requesting authority asks from the requested authority in relation thereto.

#### *Article 4*

##### **Acknowledgement of receipt of a consultation notice**

The requested authority shall send the requesting authority an acknowledgement of receipt of the consultation notice referred to in Article 3 within 2 working days of receiving such notice.

#### *Article 5*

##### **Response from a requested authority**

1. A response to a consultation notice shall be made in writing, using the format set out in Annex II, by post, facsimile or secure electronic means. It shall be addressed to the designated contact point of the requesting authority referred to in Article 2, unless otherwise specified by the requesting authority.

2. The requested authority shall provide the requesting authority as soon as possible and no later than 20 working days after receipt of the consultation notice with:
  - (a) all relevant information requested in the consultation notice, including any views or reservations in relation to the acquisition by the proposed acquirer;
  - (b) all essential information, on its own initiative.
3. Where the requested authority is unable to meet the time limit set out in paragraph 2, it shall immediately inform the requesting authority of the justifiable reasons that necessitate any such delay and provide an estimated date of response. The requested authority shall provide regular feedback on the progress made either of its own initiative or upon the request of the requesting authority.
4. Where, due to justified cases of necessity, the requested authority is not able to provide all the required information in time for meeting the time limit set out in paragraph 2, it shall:
  - (a) provide the information which is already available within the time limit set out in paragraph 2, using the format set out in Annex II;
  - (b) provide any missing information as soon as it becomes available and in a manner, including verbally, which ensures that any necessary action may proceed expediently.
5. If the requested information is provided verbally pursuant to point (b) of paragraph 4, it shall subsequently be confirmed in writing in accordance with paragraph 1, unless the competent authorities involved agree otherwise.

#### Article 6

##### **Procedures for consultation**

1. The requesting authority and the requested authority shall communicate in relation to a consultation notice and the response using the most expedient means from among those set out in Article 3(3) and Article 5(1), taking due account of confidentiality considerations, correspondence times, the volume of material to be communicated and the ease of access to the information by the requesting authority.
2. The information provided by the requested authority shall, to the best of its knowledge, be complete, accurate and up to date.
3. Upon receipt of a consultation notice, the requested authority shall communicate with the requesting authority in a timely manner where it needs any clarification in relation to the information requested.

The requesting authority shall in turn respond promptly to any clarifications requested by the requested authority.

4. If the information requested is held by another authority of the same Member State as the requested authority but which does not constitute a competent authority for the purposes of Article 24 of Directive 2013/36/EU, the requested authority shall undertake best efforts to collect the information promptly and transmit it to the requesting authority in accordance with Article 5.

If the information requested is held by another authority of a different Member State or by another authority of the same Member State which constitutes a competent authority for the purposes of Article 24 of Directive 2013/36/EU, the requested authority shall promptly inform the requesting authority thereof.

5. The requested authority and the requesting authority shall cooperate to resolve any difficulties that may arise in responding to a request.
6. The requested authority and the requesting authority shall provide feedback to each other on the outcome of the assessment in relation to which the consultation process occurred and, where appropriate, on the usefulness of the information or other assistance received and on any problems encountered in providing such assistance or information.

7. Where new information or a need for further information comes to light during the assessment period, the requesting authority and the requested authority shall ensure that all essential and relevant information is exchanged. The templates set out in Annexes I and II shall, where appropriate, be used for this purpose.

8. During the consultation process, competent authorities shall use an official language of a Member State of the Union which is a language commonly used for international supervisory cooperation, and shall publish the choice of such language or languages on their websites. The competent authorities of Member States that have a common official language, or mutually agree to use another official language of a Member State of the Union, may use that language.

*Article 7*

**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, 16 March 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

\_\_\_\_\_

## ANNEX I

**Consultation notice template**  
**(Article 3 of Commission Implementing Regulation (EU) 2017/461)**

Consultation notice

Date: .....

FROM:

Member State:

Requesting Authority:

Address:

(Contact details of the designated contact point)

Telephone:

Email:

Reference number:

TO:

Member State:

Requested Authority:

Address:

(Contact details of the designated contact point)

Telephone:

Email:

Dear Sir/Madam,

In accordance with Article 3 of Commission Implementing Regulation (EU) 2017/461 <sup>(1)</sup>, a consultation notice is made in relation to the matters set out in further detail below.

Please note that the assessment procedure will expire on [insert date] <sup>(2)</sup>. We therefore would be grateful if you could provide the requested information and any other essential information, as well as any views or reservations you might have on the proposed holding, within 20 working days from receipt of this letter or, if that is not possible, an indication as to when you anticipate being in a position to provide the assistance which is sought.

This consultation notice, your response and their processing are subject to Directive 95/46/EC of the European Parliament and of the Council <sup>(3)</sup>.

<sup>(1)</sup> Commission Implementing Regulation (EU) 2017/461 of 16 March 2017 laying down implementing technical standards with regard to common procedures, forms and templates for the consultation process between the relevant competent authorities for proposed acquisitions of qualifying holdings in credit institutions as referred to in Article 24 of Directive 2013/36/EU of the European Parliament and of the Council (OJ L 72, 17.3.2017, p. 57).

<sup>(2)</sup> In accordance with the second subparagraph of Article 22(2) of Directive 2013/36/EU or, as the case may be, Article 15 of the Directive.

<sup>(3)</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

**Information on the proposed holding**

Identity of the proposed acquirer(s), shareholder(s) or member(s):

.....  
.....  
.....

*[For natural persons, please include the personal details, including the person's name, date and place of birth, personal identification number (where available) and address. For legal persons, please include the registered name, the registered address of its head office, the postal address (if different) and the national identification number (where available)]*

Name of relevant regulated entity(/ies) in the requested authority's Member State and relationship with the proposed acquirer, shareholder or member:

.....  
.....  
.....

*[Where the proposed acquirer, shareholder or member is a regulated entity as referred to in Article 24(1)(a) of Directive 2013/36/EU, the name of the proposed acquirer, shareholder or member is sufficient. Where the proposed acquirer, shareholder or member falls under one of the categories defined under Article 24(1)(b) or (c) of Directive 2013/36/EU, it is also necessary to explain the relationship of the proposed acquirer, shareholder or member with the relevant regulated entity established in the requested authority's Member State]*

Identity of the target undertaking or institution for which authorisation is sought:

.....  
.....  
.....

*[Please insert the registered name, the registered address of its head office, the postal address (if different) and the national identification number (where available)]*

Size of the current and intended direct or indirect holding of the proposed acquirer, shareholder or member in the target undertaking or institution for which authorisation is sought:

.....  
.....  
.....

*[Please insert information on the shares of the target undertaking or institution for which authorisation is sought owned, or contemplated to be owned, by the proposed acquirer, shareholder or member (if relevant, before and after the proposed acquisition), including (i) the number and type of shares, whether ordinary shares, or other, of the undertaking owned, or intended to be acquired, by the proposed acquirer, shareholder or member (if relevant, before and after the proposed acquisition), along with the nominal value of such shares, (ii) the share of the overall capital of the undertaking that the shares owned, or intended to be acquired, by the proposed acquirer, shareholder or member represent (if relevant, before and after the proposed acquisition) and (iii) the share of the overall voting rights of the undertaking that the shares owned, or contemplated to be owned, by the proposed acquirer, shareholder or member represent (if relevant, before and after the proposed acquisition), if different from the share of capital of the undertaking. For indirect acquisitions, such information shall be provided mutatis mutandis.]*

Details of any other authorities involved:

.....  
.....  
.....

*[Whether the requesting authority has been or will be in contact with any other authority in the Member State of the requested authority in relation to the subject matter of the request or any other authority which the requesting authority is aware has an active interest in the subject matter of the request]*

[Additional information provided by the requesting authority (if any):

.....  
.....  
.....  
..... ]

**Type of assistance requested**

Specific information requested:

.....  
.....  
.....  
.....

*[Please insert a detailed description of the specific information sought, including any relevant documents requested. Such information shall include:*

- where available, the outcome of the most recent assessment of the suitability (in terms of being fit and proper) of the proposed acquirer, shareholder or member or of the relevant officers of the relevant regulated entity,*
- where available, the outcome of the most recent assessment of the financial soundness of the proposed acquirer, shareholder or member or of the relevant regulated entity, with related public or external audit reports,*
- where available, the outcome of the most recent assessment by the requested authority of the quality of the management structure of the proposed acquirer, shareholder or member or of the relevant regulated entity, and its administrative and accounting procedures, internal control systems, corporate governance, group structure, etc.,*
- whether there are any grounds to suspect, in connection with the proposed acquisition or participation, that money laundering or terrorist financing is being or has been committed or attempted,*

*and any other specific information sought by the requesting authority.]*

Yours faithfully,

[signature]

\_\_\_\_\_

ANNEX II

**Response from requested authority template**  
**(Article 5 of Commission Implementing Regulation (EU) 2017/461)**

Response from requested authority

Date: .....

**General information**

FROM:

Member State:

Requested Authority:

Address:

(Contact details of the designated contact point)

Telephone:

Email:

Requested authority reference number:

TO:

Member State:

Requesting Authority:

Address:

(Contact details of the designated contact point)

Telephone:

Email:

Requesting authority reference number:

Dear Sir/Madam,

In accordance with Article 5 of Commission Implementing Regulation (EU) 2017/461 <sup>(1)</sup>, your consultation notice dated [dd.mm.yyyy] with the reference number referred to above has been processed by us.

This response is subject to Directive 95/46/EC of the European Parliament and of the Council <sup>(2)</sup>.

Where applicable, please explain any doubt you have in relation to the precise information requested or any other aspect of this assessment:

.....  
.....  
.....

<sup>(1)</sup> Commission Implementing Regulation (EU) 2017/461 of 16 March 2017 laying down implementing technical standards with regard to common procedures, forms and templates for the consultation process between the relevant competent authorities for proposed acquisitions of qualifying holdings in credit institutions as referred to in Article 24 of Directive 2013/36/EU of the European Parliament and of the Council (OJ L 72, 17.3.2017, p. 57).

<sup>(2)</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).



Please set out the requested information here or refer to the relevant annexes containing the information requested:

.....  
.....  
.....

If there is any other essential information or other information the requested authority would like to provide, please provide such information here or supply an explanation of how it will be provided, or make reference to the relevant annexes containing that information:

.....  
.....  
.....

*[Please provide any essential information, such as group structure or the most recent assessments of the financial soundness of the proposed acquirer or of the relevant regulated entity.]*

If there are any views or reservations in relation to the proposed acquisition, please provide them here:

.....  
.....  
.....

If any requested information was not available when preparing this response and awaiting such information would have resulted in the response not being submitted within the required timeframe, please identify such information here and specify when it is expected to be provided:

.....  
.....  
.....

Yours faithfully,

*[signature]*

\_\_\_\_\_