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DIRECTIVE DI144-2014-14

OF THE CYPRUS SECURITIES AND EXCHANGE COMMISSION

FOR THE PRUDENTIAL SUPERVISION OF INVESTMENT FIRMS

CLASSIFICATION OF PARAGRAPHS

DIRECTIVE DI144-2014-14 OF 2014
OF THE CYPRUS SECURITIES AND EXCHANGE COMMISSION
FOR THE PRUDENTIAL SUPERVISION OF INVESTMENT FIRMS

The Cyprus Securities and Exchange Commission exercising its powers pursuant to section 73 of the Investment Services, Activities and Regulated Markets Law and for the purpose of harmonization with the actions of the European Union titled the 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, issues the following Directive to the Cypriot Investment Firms and repeals Directives DI144-2007-05 and DI144-2007-06:

OJ No L 176 / 338,

27.6.2013

ΚΠΔ 556/2007

ΚΠΔ/142/2008

Part I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Subject matter

1. This Directive lays down rules concerning:

(1) supervisory powers and tools for the prudential supervision of CIFs by the Cyprus Securities and Exchange Commission;

(2) the prudential supervision of CIFs by the Cyprus Securities and Exchange Commission in a manner that is consistent with the rules set out in Regulation (EU) No 575/2013;

(3) publication requirements for the Cyprus Securities and Exchange Commission in the field of prudential regulation and supervision of CIFs.

Scope

2. (1) This Directive shall apply to CIFs, excluding CIFs that are not authorised to provide the ancillary service referred to in point (1) of Part II of the Third Appendix of the Law, which provide only one or more of the investment services and activities listed in points 1, 2, 4 and 5 of Part I of the Third Appendix to the Investment Services and Activities and Reulated Markets Law of 2007, as amended and which are not permitted to hold money or securities belonging to their clients and which for that reason may not at any time place themselves in debt with those clients.

124(I)/2007

106(I)/2009

141(I)/2012

154(1)/2012

(2) Part II, Chapter 2 shall apply to financial holding companies, mixed financial holding companies and mixed-activity holding companies which have their head offices in the Union;

Definitions

3. For the purposes of this Directive, the following definitions shall apply:

(1) 'ancillary services undertaking' means ancillary services undertaking as defined in point (18) of Article 4(1) of Regulation (EU) No 575/2013;

(2) 'asset management company' means asset management company as defined in point (19) of Article 4(1) of Regulation (EU) No 575/2013;

(3) 'authorisation' means authorisation as defined in point (42) of Article 4(1) of Regulation (EU) No 575/2013;

(4) 'branch' means branch as defined in point (17) of Article 4(1) of Regulation (EU) No 575/2013;

(5) 'central banks' means central banks as defined in point (46) of Article 4(1) of Regulation (EU) No 575/2013;

(6) 'central counterparty' means central counterparty as defined in point (34) of Article 4(1) of Regulation (EU) No 575/2013;

(7) 'close links' means close links as defined in point (38) of Article 4(1) of Regulation (EU) No 575/2013;

(8) 'Commission' means the Cyprus Securities and Exchange Commission that is established and operating pursuant to the Cyprus Securities and Exchange Commission (Constitution and Terms of Reference) Act 2001-2007;

(9) 'competent authority' means competent authority as defined in point (40) of Article 4(1) of Regulation (EU) No 575/2013;

(10) 'consolidated basis' means consolidated basis as defined in point (48) of Article 4(1) of Regulation (EU) No 575/2013;

(11) 'consolidated situation' means consolidated situation as defined in point (47) of Article 4(1) of Regulation (EU) No 575/2013;

(12) 'consolidating supervisor' means consolidating supervisor as defined in point (41) of Article 4(1) of Regulation (EU) No 575/2013;

(13) 'control' means control as defined in point (37) of Article 4(1) of Regulation (EU) No 575/2013;

(14) 'credit institution' means credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013;

(15) 'credit risk mitigation' means credit risk mitigation as defined in point (57) of Article 4(1) of Regulation (EU) No 575/2013;

(16) 'Directive 2013/36/EU' means the 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;

(17) 'discretionary pension benefits' means discretionary pension benefits as defined in point (73) of Article 4(1) of Regulation (EU) No 575/2013;

(18) 'ESCB central banks' means ESCB central banks as defined in point (45) of Article 4(1) of Regulation (EU) No 575/2013;

(19) 'EU parent financial holding company' means EU parent financial holding company as defined in point (31) of Article 4(1) of Regulation (EU) No 575/2013;

(20) 'EU parent institution' means EU parent institution as defined in point (29) of Article 4(1) of Regulation (EU) No 575/2013;

(21) 'EU parent mixed financial holding company' means EU parent mixed financial holding company as defined in point (33) of Article 4(1) of Regulation (EU) No 575/2013;

(22) 'European Banking Authority' or ' EBA ' means the European Banking Authority established by Regulation 1093/2010;

(23) 'European Commission' or 'EC' means the Commission of the European Communities;

(24) 'external credit assessment institution' means external credit assessment institution as defined in point (98) of Article 4(1) of Regulation (EU) No 575/2013;

(25) 'financial holding company' means financial holding company as defined in point (20) of Article 4(1) of Regulation (EU) No 575/2013;

(26) 'financial institution' means financial institution as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013;

(27) 'financial instrument' means financial instrument as defined in point (50) of Article 4(1) of Regulation (EU) No 575/2013;

(28) 'financial sector entity' means financial sector entity as defined in point (27) of Article 4(1) of Regulation (EU) No 575/2013;

(29) 'group of connected persons' means group of connected persons as defined in point (39) of Article 4(1) of Regulation (EU) No 575/2013;

(30) 'home Member State' means home Member State as defined in point (43) of Article 4(1) of Regulation (EU) No 575/2013;

(31) 'host Member State' means host Member State as defined in point (44) of Article 4(1) of Regulation (EU) No 575/2013;

(32) 'institution' means institution as defined in point (3) of Article 4(1) of Regulation (EU) No 575/2013;

(33) 'insurance undertaking' means insurance undertaking as defined in point (5) of Article 4(1) of Regulation (EU) No 575/2013;

(34) 'internal approaches' means the internal ratings based approach referred to in Article 143(1), the internal models approach referred to in Article 221, the own estimates approach referred to in Article 225, the advanced measurement approaches referred to in Article 312(2), the internal models method referred to in Articles 283 and 363, and the internal assessment approach referred to in Article 259(3) of Regulation (EU) No 575/2013;

(35) 'investment firm' means investment firm as defined in point (2) of Article 4(1) of Regulation (EU) No 575/2013;

(36) 'investment services' and 'investment activities' means any of the services and activities, respectively, specified in Part I of the Third Appendix of the Law, relating to any of the financial instruments listed in Part III of the Third Appendix of the Law;

(37) 'Law' means the Investment Services and Activities and Regulated Markets Laws of 2007 as amended;

(38) 'leverage' means leverage as defined in point (93) of Article 4(1) of Regulation (EU) No 575/2013;

(39) 'mixed activity holding company' means mixed activity holding company as defined in point (22) of Article 4(1) of Regulation (EU) No 575/2013;

(40) 'mixed financial holding company' means mixed financial holding company as defined in point (21) of Article 4(1) of Regulation (EU) No 575/2013;

(41) 'model risk' means the potential loss an institution may incur, as a consequence of decisions that could be principally based on the output of internal models, due to errors in the development, implementation or use of such models;

(42) 'operational risk' means operational risk as defined in point (52) of Article 4(1) of Regulation (EU) No 575/2013;

(43) 'originator' means originator as defined in point (13) of Article 4(1) of Regulation (EU) No 575/2013;

(44) 'own funds' means own funds as defined in point (118) of Article 4(1) of Regulation (EU) No 575/2013;

(45) 'parent CIF' means a CIF which has an institution or a financial institution as a subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institution authorised in Cyprus, or of a financial holding company or mixed financial holding company set up in Cyprus;

(46) 'parent financial holding company in a Member State' means parent financial holding company in a Member State as defined in point (30) of Article 4(1) of Regulation (EU) No 575/2013;

(47) 'parent institution in a Member State' means parent institution in a Member State as defined in point (28) of Article 4(1) of Regulation (EU) No 575/2013;

(48) 'parent mixed financial holding company in a Member State' means parent mixed financial holding company in a Member State as defined in point (32) of Article 4(1) of Regulation (EU) No 575/2013;

(49) 'parent undertaking' means parent undertaking as defined in point (15) of Article 4(1) of Regulation (EU) No 575/2013;

(50) 'participation' means participation as defined in point (35) of Article 4(1) of Regulation (EU) No 575/2013;

(51) 'qualifying holding' means qualifying holding as defined in point (36) of Article 4(1) of Regulation (EU) No 575/2013;

(52) 'regulated market' means regulated market as defined in point (92) of Article 4(1) of Regulation (EU) No 575/2013;

(53) 'Regulation (EU) No 575/2013' means the 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;

(54) 'Regulation 1093/2010' means the act of the European Union entitled "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", as amended;

(55) 'reinsurance undertaking' means reinsurance undertaking as defined in point (6) of Article 4(1) of Regulation (EU) No 575/2013;

(56) 'Resolution authority' means an authority as defined in Article 1 (18) of the European Directive 2014/59/EU of the european parliament and of the council of Establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the european parliament and of the council;

(57) 'risk of excessive leverage' means risk of excessive leverage as defined in point (94) of Article 4(1) of Regulation (EU) No 575/2013;

(58) 'securitisation' means securitisation as defined in point (61) of Article 4(1) of Regulation (EU) No 575/2013;

(59) 'securitisation position' means securitisation position as defined in point (62) of Article 4(1) of Regulation (EU) No 575/2013;

(60) 'securitisation special purpose entity' means securitisation special purpose entity as defined in point (66) of Article 4(1) of Regulation (EU) No 575/2013;

(61) 'sponsor' means sponsor as defined in point (14) of Article 4(1) of Regulation (EU) No 575/2013;

(62) 'sub-consolidated basis' means sub-consolidated basis as defined in point (49) of Article 4(1) of Regulation (EU) No 575/2013;

(63) 'subsidiary' means subsidiary as defined in point (16) of Article 4(1) of Regulation (EU) No 575/2013;

(64) 'systemic risk' means a risk of disruption in the financial system with the potential to have serious negative consequences for the financial system and the real economy;

(65) 'systemically important institution' means an EU parent institution, an EU parent financial holding company, an EU parent mixed financial holding company or an institution the failure or malfunction of which could lead to systemic risk;

(66) 'trading book' means trading as defined in point (86) of Article 4(1) of Regulation (EU) No 575/2013.

Terms used in this Directive that are not interpreted differently shall have the meaning given to them by the Law.

Where in the present Directive reference is made to the Law, this includes the Directives issued thereof.

Part II

PRUDENTIAL SUPERVISION

Chapter 1

Review processes

Section 1

Arrangements, processes and mechanisms of CIFs

Recovery and resolution plans

4. (1) CIFs must put in place, recovery plans for the restoration of their financial situation following a significant deterioration, and resolution plans. In accordance with the principle of proportionality, the requirements for a CIF to draw up, maintain and update recovery plans and for the resolution authority, after consulting the Commission, to prepare resolution plans, may be reduced if, after consulting the Central Bank of Cyprus as the macroprudential authority, the Commission considers that the failure of a specific CIF due, inter alia, to its size, to its business model, to its interconnectedness to other institutions, or to the financial system in general, will not have a negative effect on financial markets, on other institutions or on funding conditions.

(2) CIFs must cooperate closely with resolution authorities and must provide them with all information necessary for the preparation and drafting of viable resolution plans setting out options for the orderly resolution of CIFs in the case of failure, in accordance with the principle of proportionality.

Oversight of remuneration policies

5. (1) The Commission shall collect the information disclosed in accordance with the criteria for disclosure established in points (g), (h) and (i) of Article 450(1) of Regulation (EU) No 575/2013 and shall use it to benchmark remuneration trends and practices. The Commission shall provide EBA with that information.

(2) The Commission shall collect information on the number of natural persons per CIF that are remunerated EUR 1 million or more per financial year, in pay brackets of EUR 1 million, including their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution. That information shall be forwarded to EBA, which shall publish it on an aggregate home Member State basis in a common reporting format. .

Treatment of risks

6. (1) CIFs must ensure that the board of directors approves and periodically reviews the strategies and policies for taking up, managing, monitoring and mitigating the risks the CIF is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle.

(2) CIFs must ensure that the board of directors devotes sufficient time to consideration of risk issues. The board of directors shall be actively involved in and ensure that adequate resources are allocated to the management of all material risks addressed in this Directive and in Regulation (EU) No 575/2013 as well as in the valuation of assets, the use of external credit ratings and internal models relating to those risks. The CIF must establish reporting lines to the board of directors that cover all material risks and risk management policies and changes thereof.

(3) CIFs that are significant in terms of their size, internal organisation and the nature, scope and complexity of their activities must establish a risk committee composed of members of the board of directors who do not perform any executive function in the CIF concerned. Members of the risk committee shall have appropriate knowledge, skills and expertise to fully understand and monitor the risk strategy and the risk appetite of the CIF.

The risk committee must advise the board of directors on the CIF's overall current and future risk appetite and strategy and assist the board of directors in overseeing the implementation of that strategy by senior management. The board of directors must retain overall responsibility for risks.

The risk committee must review whether prices of liabilities and assets offered to clients take fully into account the CIF's business model and risk strategy. Where prices do not properly reflect risks in accordance with the business model and risk strategy, the risk committee shall present a remedy plan to the board of directors.

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The Commission may allow a CIF which is not considered significant as referred to above to combine the risk committee with the audit committee as referred to in Article 46 of Auditors and Statutory Audits of Annual and Consolidated Accounts Law of 2009. Members of the combined committee shall have the knowledge, skills and expertise required for the risk committee and for the audit committee.

(4) CIFs must ensure that the board of directors and, where a risk committee has been established, the risk committee have adequate access to information on the risk situation of the CIF and, if necessary and appropriate, to the risk management function and to external expert advice.

The board of directors and, where one has been established, the risk committee must determine the nature, the amount, the format, and the frequency of the information on risk which it is to receive. In order to assist in the establishment of sound remuneration policies and practices, the risk committee shall, without prejudice to the tasks of the remuneration committee, examine whether incentives provided by the remuneration system take into consideration risk, capital, liquidity and the likelihood and timing of earnings.

Κ.Δ.Π. 426/2007

(5) CIFs must, in accordance with the proportionality requirement laid down in Article 6(2) of the Directive DI144-2007-01 for the Authorisation and Operating Conditions of the Cyprus Investment Firms, ensure that they have a risk management function independent from the operational functions and which shall have sufficient authority, stature, resources and access to the board of directors.

CIFs must ensure that the risk management function ensures that all material risks are identified, measured and properly reported. CIFs must ensure that the risk management function is actively involved in elaborating the CIF's risk strategy and in all material risk management decisions and that it can deliver a complete view of the whole range of risks of the institution.

Where necessary, CIFs must ensure that the risk management function can report directly to the board of directors, independent from senior management, and can raise concerns and warn that body, where appropriate, where specific risk developments affect or may affect the CIF, without prejudice to the responsibilities of the board of directors pursuant to this Directive and Regulation (EU) No 575/2013.

The head of the risk management function shall be an independent senior manager with distinct responsibility for the risk management function. Where the nature, scale and complexity of the activities of the CIF do not justify a specially appointed person, another senior person within the CIF may fulfil that function, provided there is no conflict of interest.

The head of the risk management function shall not be removed without prior approval of the board of directors and shall be able to have direct access to the board of directors where necessary.

The application of this Directive shall be without prejudice to the application of Directive DI144-2007-01 for the Authorisation and Operating Conditions of the Cyprus Investment Firms to CIFs.

Internal Approaches for calculating own funds requirements

7. (1) CIFs that are significant in terms of their size, internal organisation and the nature, scale and complexity of their activities, are encouraged to develop internal credit risk assessment capacity and to increase use of the internal ratings based approach for calculating own funds requirements for credit risk where their exposures are material in absolute terms and where they have at the same time a large number of material counterparties. This paragraph shall be without prejudice to the fulfilment of criteria laid down in Part Three, Title I, Chapter 3, and Section 1 of Regulation (EU) No 575/2013.

(2) The Commission shall, taking into account the nature, scale and complexity of CIFs' activities, monitor that they do not solely or mechanistically rely on external credit ratings for assessing the creditworthiness of an entity or financial instrument.

(3) CIFs, taking into account their size, internal organisation and the nature, scale and complexity of their activities, are encouraged to develop internal specific risk assessment capacity and to increase use of internal models for calculating own funds requirements for specific risk of debt instruments in the trading book, together with internal models to calculate own funds requirements for default and migration risk where their exposures to specific risk are material in absolute terms and where they have a large number of material positions in debt instruments of different issuers.

This paragraph shall be without prejudice to the fulfilment of the criteria laid down in Part Three, Title IV, Chapter 5, and Sections 1 to 5, of Regulation (EU) No 575/2013.

Supervisory benchmarking of internal approaches for calculating own funds requirements

8. (1) CIFs are permitted to use internal approaches for the calculation of risk weighted exposure amounts or own fund requirements except for operational risk report the results of the calculations of their internal approaches for their exposures or positions that are included in the benchmark portfolios. CIFs shall submit the results of their calculations, together with an explanation of the methodologies used to produce them, to the Commission at an appropriate frequency, and at least annually.

(2) CIFs must submit the results of the calculations referred to in subparagraph (1) in accordance with the template developed by EBA to the Commission and to EBA.

(3) The Commission shall, on the basis of the information submitted by CIFs in accordance with subparagraph (1), monitor the range of risk weighted exposure amounts or own funds requirements, as applicable, except for operational risk, for the exposures or transactions in the benchmark portfolio resulting from the internal approaches of those CIFs. At least annually, the Commission shall make an assessment of the quality of those approaches paying particular attention to:

(a) those approaches that exhibit significant differences in own fund requirements for the same exposure;

(b) approaches where there is particularly high or low diversity, and also where there is a significant and systematic under- estimation of own funds requirements.

(4) Where particular CIFs diverge significantly from the majority of their peers or where there is little commonality in approach leading to a wide variance of results, the Commission shall investigate the reasons therefore and, if it can be clearly identified that a CIF's approach leads to an underestimation of own funds requirements which is not attributable to differences in the underlying risks of the exposures or positions, shall take corrective action.

(5) The Commission shall ensure that its decisions on the appropriateness of corrective actions as referred to in subparagraph (4) comply with the principle that such actions must maintain the objectives of an internal approach and therefore do not:

(a) lead to standardisation or preferred methods;

(b) create wrong incentives; or

(c) cause herd behaviour.

Credit and counterparty risk

9. (1) CIFs must ensure that:

(a)credit-granting shall be based on sound and well-defined criteria and the process for approving, amending, renewing, and re-financing credits shall be clearly established;

(b)CIFs must have internal methodologies that enable them to assess the credit risk of exposures to individual obligors, securities or securitisation positions and credit risk at the portfolio level. In particular, internal methodologies shall not rely solely or mechanistically on external credit ratings. Where own funds requirements are based on a rating by an External Credit Assessment Institution (ECAI) or based on the fact that an exposure is unrated, this shall not exempt CIFs from additionally considering other relevant information for assessing their allocation of internal capital;

(c)the ongoing administration and monitoring of the various credit risk-bearing portfolios and exposures of CIFs, including for identifying and managing problem credits and for making adequate value adjustments and provisions, must be operated

through effective systems;

(d) diversification of credit portfolios shall be adequate given a CIF's target markets and overall credit strategy.

Residual risk

10. The risk that recognised credit risk mitigation techniques used by CIFs prove less effective than expected must be addressed and controlled including by means of written policies and procedures.

Concentration risk

11. The concentration risk arising from exposures to each counterparty, including central counterparties, groups of connected counterparties, and counterparties in the same economic sector, geographic region or from the same activity or commodity, the application of credit risk mitigation techniques, and including in particular risks associated with large indirect credit exposures such as a single collateral issuer, must be addressed and controlled including by means of written policies and procedures.

Securitisation risk

12. (1) The risks arising from securitisation transactions in relation to which the CIFs are investors, originator or sponsor, including reputational risks, such as arise in relation to complex structures or products, must be evaluated and addressed through the appropriate policies and procedures, to ensure that the economic substance of the transaction is fully reflected in the risk assessment and management decisions.

(2) Liquidity plans to address the implications of both scheduled and early amortisation must exist at CIFs which are originators of revolving securitisation transactions involving early amortisation provisions.

Market risk

13. (1) CIFs must implement policies and processes for the identification, measurement and management of all material sources and effects of market risks.

(2) Where the short position falls due before the long position, CIFs must also take measures against the risk of a shortage of liquidity.

(3) The internal capital must be adequate for material market risks that are not subject to an own funds requirement.

CIFs, which have, in calculating own funds requirements for position risk in accordance with Part Three, Title IV, Chapter 2, of Regulation (EU) No 575/2013, netted off their positions in one or more of the equities constituting a stock-index against one or more positions in the stock-index future or other stock- index product must have adequate internal capital to cover the basis risk of loss caused by the future's or other product's value not moving fully in line with that of its constituent equities. CIFs must also have such adequate internal capital where they hold opposite positions in stock-index futures which are not identical in respect of either their maturity or their composition or both.

Where using the treatment in Article 345 of Regulation (EU) No 575/2013, CIFs must ensure that they hold sufficient internal capital against the risk of loss which exists between the time of the initial commitment and the following working day.

Interest risk arising from non-trading book activities

14. CIFs must implement systems to identify, evaluate and manage the risk arising from potential changes in interest rates that affect a CIF's non-trading activities.

Operational risk

15. (1) CIFs must implement policies and processes to evaluate and manage the exposure to operational risk, including model risk, and to cover low-frequency high-severity events. CIFs must articulate what constitutes operational risk for the purposes of those policies and procedures.

(2) CIFs must put in place contingency and business continuity plans to ensure a CIF's ability to operate on an ongoing basis and limit losses in the event of severe business disruption.

Liquidity risk

16. (1) CIFs must have robust strategies, policies, processes and systems for the identification, measurement, management and monitoring of liquidity risk over an appropriate set of time horizons, including intra- day, so as to ensure that they maintain adequate levels of liquidity buffers. Those strategies, policies, processes and systems shall be tailored to business lines, currencies, branches and legal entities and shall include adequate allocation mechanisms of liquidity costs, benefits and risks.

(2) The strategies, policies, processes and systems referred to in subparagraph (1) must be proportionate to the complexity, risk profile, scope of operation of the CIF and risk tolerance set by the board of directors and reflect the CIF's importance in the Republic. CIFs must communicate risk tolerance to all relevant business lines.

(3) CIFs, taking into account the nature, scale and complexity of their activities, must have liquidity risk profiles that are consistent with and, not in excess of, those required for a well-functioning and robust system.

The Commission shall monitor developments in relation to liquidity risk profiles, for example product design and volumes, risk management, funding policies and funding concentrations.

The Commission shall take effective action where the developments referred to above may lead to individual CIF or systemic instability.

The Commission shall inform EBA about any actions carried out pursuant to the above.

(4) CIFs must develop methodologies for the identification, measurement, management and monitoring of funding positions. Those methodologies shall include the current and projected material cash-flows in and arising from assets, liabilities, off-balance- sheet items, including contingent liabilities and the possible impact of reputational risk.

(5) CIFs must distinguish between pledged and unencumbered assets that are available at all times, in particular during emergency situations.

CIFs must also take into account the legal entity in which assets reside, the country where assets are legally recorded either in a register or in an account and their eligibility and shall monitor how assets can be mobilised in a timely manner.

(6) CIFs must also have regard to existing legal, regulatory and operational limitations to potential transfers of liquidity and unencumbered assets amongst entities, both within and outside the European Economic Area.

(7) CIFs must consider different liquidity risk mitigation tools, including a system of limits and liquidity buffers in order to be able to withstand a range of different stress events and an adequately diversified funding structure and access to funding sources. Those arrangements shall be reviewed regularly.

(8) CIFs must consider alternative scenarios on liquidity positions and on risk mitigants and review the assumptions underlying decisions concerning the funding position at least annually. For those purposes, alternative scenarios shall address, in particular, off-balance sheet items and other contingent liabilities, including those of Securitisation Special Purpose Entities (SSPE) or other special purpose entities, as referred to in Regulation (EU) No 575/2013, in relation to which the CIF acts as sponsor or provides material liquidity support.

(9) CIFs must consider the potential impact of institution-specific, market- wide and combined alternative scenarios. Different time periods and varying degrees of stress conditions shall be considered.

(10) CIFs must adjust their strategies, internal policies and limits on liquidity risk and develop effective contingency plans, taking into account the outcome of the alternative scenarios referred to in subparagraph (8).

(11) CIFs must have in place liquidity recovery plans setting out adequate strategies and proper implementation measures in order to address possible liquidity shortfalls, including in relation to branches established in another Member State. Those plans shall be tested by the CIFs at least annually, updated on the basis of the outcome of the alternative scenarios set out in subparagraph (8), reported to and approved by senior management, so that internal policies and processes can be adjusted accordingly. CIFs must take the necessary operational steps in advance to ensure that liquidity recovery plans can be implemented immediately.

Risk of excessive leverage

17. (1) CIFs must have policies and processes in place for the identification, management and monitoring of the risk of excessive leverage. Indicators for the risk of excessive leverage shall include the leverage ratio determined in accordance with Article 429 of Regulation (EU) No 575/2013 and mismatches between assets and obligations.

(2) CIFs must address the risk of excessive leverage in a precautionary manner by taking due account of potential increases in the risk of excessive leverage caused by reductions of the CIF's own funds through expected or realised losses, depending on the applicable accounting rules. To that end, CIFs must be able to withstand a range of different stress events with respect to the risk of excessive leverage.

Section 2

Governance

Country-by-country Reporting

18. (1) From 1 January 2015 CIFs are required to disclose annually, specifying, by Member State and by third country in which it has an establishment, the following information on a consolidated basis for the financial year:

(a) name(s), nature of activities and geographical location

(b) turnover;

(c) number of employees on a full time equivalent basis;

(d) profit or loss before tax;

(e) tax on profit or loss;

(f) public subsidies received.

(2) The information referred to in subparagraph (1) shall be audited in accordance with the Auditors and Statutory Audits of Annual and Consolidated Accounts Law of 2009 and shall be published, where possible, as an annex to the annual financial statements or, where applicable, to the consolidated financial statements of the CIF concerned.

Public disclosure of return on assets

19. CIFs must disclose in their annual report among the key indicators their return on assets, calculated as their net profit divided by their total balance sheet.

Remuneration policies

20. (1) Subparagraph (2) of this paragraph and of paragraphs 21 and 22 apply to CIFs at group, parent company and subsidiary levels, including those established in offshore financial centres.

(2) When establishing and applying the total remuneration policies, inclusive of salaries and discretionary pension benefits, for categories of staff including senior management, risk takers, staff engaged in control functions and any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on their risk profile, CIFs must comply with the following principles in a manner and to the extent that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities:

(a) the remuneration policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking that exceeds the level of tolerated risk of the CIF;

(b) the remuneration policy is in line with the business strategy, objectives, values and long-term interests of the CIF, and incorporates measures to avoid conflicts of interest;

(c) the CIF's board of directors adopts and periodically reviews the general principles of the remuneration policy and is responsible for overseeing its implementation;

(d)the implementation of the remuneration policy is, at least annually, subject to central and independent internal review for compliance with policies and procedures for remuneration adopted by the board of directors;

(e)staff engaged in control functions are independent from the business units they oversee, have appropriate authority, and are remunerated in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control;

(f) the remuneration of the senior officers in the risk management and compliance functions is directly overseen by the remuneration committee referred to in paragraph 22 or, if such a committee has not been established, by the board of directors;

(g)the remuneration policy, taking into account national criteria on wage setting, makes a clear distinction between criteria for setting:

(i) basic fixed remuneration, which should primarily reflect relevant professional experience and organisational responsibility as set out in an employee's job description as part of the terms of employment; and

(ii)variable remuneration which should reflect a sustainable and risk adjusted performance as well as performance in excess of that required to fulfil the employee's job description as part of the terms of employment.

Variable elements of remuneration

21. For variable elements of remuneration, the following principles shall apply in addition to, and under the same conditions as, those set out in paragraph 20 (2):

(a) where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the performance of the individual and of the business unit concerned and of the overall results of the CIF and when assessing individual performance, financial and non-financial criteria are taken into account;

(b) the assessment of the performance is set in a multi-year framework in order to ensure that the assessment process is based on long-term performance and that the actual payment of performance-based components of remuneration is spread over a period which takes account of the underlying business cycle of the CIF and its business risks;

(c) the total variable remuneration does not limit the ability of the CIF to strengthen its capital base;

(d) guaranteed variable remuneration is not consistent with sound risk management or the pay-for-performance principle and shall not be a part of prospective remuneration plans;

(e) guaranteed variable remuneration is exceptional, occurs only when hiring new staff

and where the CIF has a sound and strong capital base and is limited to the first year of employment;

(f) fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy on variable remuneration components, including the possibility to pay no variable remuneration component;

(g)CIFs must set the appropriate ratios between the fixed and the variable component of the total remuneration, whereby the following principles shall apply:

(i) the variable component shall not exceed 100 % of the fixed component of the total remuneration for each individual.

(ii) Shareholders of the CIF may approve a higher maximum level of the ratio between the fixed and variable components of remuneration provided the overall level of the variable component shall not exceed 200 % of the fixed component of the total remuneration for each individual.

Any approval of a higher ratio in accordance with point (g)(ii) must be carried out in accordance with the following procedure:

— the shareholders must act upon a detailed recommendation by the CIF giving the reasons for, and the scope of, an approval sought, including the number of staff affected, their functions and the expected impact on the requirement to maintain a sound capital base;

— shareholders must act by a majority of at least 66 % provided that at least 50 % of the shares or equivalent ownership rights are represented or, failing that, must act by a majority of 75 % of the ownership rights represented;

— the CIF must notify all shareholders of the CIF, providing a reasonable notice period in advance, that an approval under the first subparagraph of this point will be sought;

— the CIF must, without delay, inform the Commission of the recommendation to its shareholders,including the proposed higher maximum ratio and the reasons therefore and must be able to demonstrate to the Commission that the proposed higher ratio does not conflict with the CIF's obligations under this Directive and under Regulation (EU) No 575/2013, having regard in particular to the CIF's own funds obligations;

— the CIF must, without delay, inform the Commission of the decisions taken by its shareholders, including any approved higher maximum ratio pursuant to point (g)(ii), and the Commission must use the information received to benchmark the practices of CIFs in that regard. The Commission shall provide EBA with that information and EBA shall publish it on an aggregate home Member State basis in a common reporting format;

— staff who are directly concerned by the higher maximum levels of variable remuneration referred to in point (g)(ii) of this paragraph must not, where applicable, be allowed to exercise, directly or indirectly, any voting rights they may have as shareholders;

(iii)CIFs may apply the discount rate to a maximum of 25 % of total variable remuneration provided it is paid in instruments that are deferred for a period of not less than five years.

(h)payments relating to the early termination of a contract reflect performance achieved over time and do not reward failure or misconduct;

(i)remuneration packages relating to compensation or buy out from contracts in previous employment must align with the long-term interests of the CIF including retention, deferral, performance and clawback arrangements;

(j)the measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes an adjustment for all types of current and future risks and takes into account the cost of the capital and the liquidity required;

(k) the allocation of the variable remuneration components within the CIF must also take into account all types of current and future risks;

(l) a substantial portion, and in any event at least 50 %, of any variable remuneration must consist of a balance of the following:

(i) shares or equivalent ownership interests, subject to the legal structure of the CIF concerned or share- linked instruments or equivalent non-cash instruments, in the case of a non-listed CIF;

(ii) where possible, other instruments within the meaning of Article 52 or 63 of Regulation (EU) No 575/2013 or other instruments which can be fully converted to Common Equity Tier 1 instruments or written down, that in each case adequately reflect the credit quality of the CIF as a going concern and are appropriate to be used for the purposes of variable remuneration.

The instruments referred to in this point must be subject to an appropriate retention policy designed to align incentives with the longer-term interests of the CIF. This point must be applied to both the portion of the variable remuneration component deferred in accordance with point (m) and the portion of the variable remuneration component not deferred;

(m)a substantial portion, and in any event at least 40 %, of the variable remuneration component is deferred over a period which is not less than three to five years and is correctly aligned with the nature of the business, its risks and the activities of the member of staff in question.

Remuneration payable under deferral arrangements shall vest no faster than on a pro-rata basis. In the case of a variable remuneration component of a particularly

high amount, at least 60 % of the amount shall be deferred. The length of the deferral period shall be established in accordance with the business cycle, the nature of the business, its risks and the activities of the member of staff in question;

(n) the variable remuneration, including the deferred portion, is paid or vests only if it is sustainable according to the financial situation of the CIF as a whole, and justified on the basis of the performance of the CIF, the business unit and the individual concerned.

Without prejudice to the general principles of national contract and labour law, the total variable remuneration shall generally be considerably contracted where subdued or negative financial performance of the CIF occurs, taking into account both current remuneration and reductions in payouts of amounts previously earned, including through malus or clawback arrangements.

Up to 100 % of the total variable remuneration shall be subject to malus or clawback arrangements. CIFs must set specific criteria for the application of malus and clawback. Such criteria shall in particular cover situations where the staff member:

(i)participated in or was responsible for conduct which resulted in significant losses to the CIF;

(ii)failed to meet appropriate standards of fitness and propriety;

(o) the pension policy is in line with the business strategy, objectives, values and long-term interests of the CIF.

If the employee leaves the CIF before retirement, discretionary pension benefits shall be held by the CIF for a period of five years in the form of instruments referred to in point (l). Where an employee reaches retirement, discretionary pension benefits must be paid to the employee in the form of instruments referred to in point (l) subject to a five-year retention period;

(p) staff members are required to undertake not to use personal hedging strategies or remuneration- and liability- related insurance to undermine the risk alignment effects embedded in their remuneration arrangements;

(q) variable remuneration is not paid through vehicles or methods that facilitate the non-compliance with this Directive or Regulation (EU) No 575/2013.

Remuneration Committee

22. (1) CIFs which are significant in terms of their size, internal organisation and the nature, the scope and the complexity of their activities, must establish a remuneration committee. The remuneration committee must be constituted in such a way as to enable it to exercise competent and independent judgment on remuneration policies and practices and the incentives created for managing risk, capital and liquidity.

(2) The remuneration committee must be responsible for the preparation of decisions regarding remuneration, including those which have implications for the risk and risk management of the CIF concerned and which are to be taken by the board of directors. The Chair and the members of the remuneration committee must be members of the board of directors who do not perform any executive function in the CIF concerned. If employee representation on the board of directors is provided for by Cyprus law, the remuneration committee shall include one or more employee representatives. When preparing such decisions, the remuneration committee shall take into account the long-term interests of shareholders, investors and other stakeholders in the CIF and the public interest.

Maintenance of a website on corporate governance and remuneration

23. CIFs that maintain a website shall explain there, how they comply with the requirements of paragraphs 18, 19, 20, 21 and 22 of this Directive and of sections 12 and 18A of the Law.

Section 3

Supervisory review and evaluation process

Supervisory review and evaluation

24. (1)In accordance with section 70 of the Law and taking into account the technical criteria set out in Paragraph 25, the Commission shall review the arrangements, strategies, processes and mechanisms implemented by the CIFs to comply with this Directive, the Law and Regulation (EU) No 575/2013 and evaluate:

(a) risks to which the CIFs are or might be exposed;

(b) risks that a CIF poses to the financial system taking into account the identification and measurement of systemic risk under Article 23 of Regulation (EU) No 1093/2010, or recommendations of the ESRB, where appropriate; and

(c) risks revealed by stress testing taking into account the nature, scale and complexity of a CIF's activities.

(2) The scope of the review and evaluation referred to in subparagraph (1) shall cover all requirements of this Directive, of the Law and of Regulation (EU) No 575/2013.

(3) On the basis of the review and evaluation referred to in subparagraph (1), the Commission shall determine whether the arrangements, strategies, processes and mechanisms implemented by CIFs and the own funds and liquidity held by them ensure a

sound management and coverage of their risks.

(4) The Commission shall establish the frequency and intensity of the review and evaluation referred to in subparagraph (1) having regards to the size, systemic importance, nature, scale and complexity of the activities of the CIF concerned and taking into account the principle of proportionality. The review and evaluation shall be updated at least on an annual basis for institutions covered by the supervisory examination programme referred to in paragraph 26 (2).

(5) Where a review shows that a CIF may pose systemic risk in accordance with Article 23 of Regulation (EU) No 1093/2010 the Commission shall inform EBA without delay about the results of the review.

Technical criteria for the supervisory review and evaluation

25. (1) In addition to credit, market and operational risks, the review and evaluation performed by the Commission pursuant to section 70 of the Law shall include at least:

(a) the results of the stress test carried out in accordance with Article 177 of Regulation (EU) No 575/2013 by CIFs applying an internal ratings based approach;

(b) the exposure to and management of concentration risk by CIFs, including their compliance with the requirements set out in Part Four of Regulation (EU) No 575/2013 and Paragraph 11 of this Directive;

(c) the robustness, suitability and manner of application of the policies and procedures implemented by CIFs for the management of the residual risk associated with the use of recognised credit risk mitigation techniques;

(d) the extent to which the own funds held by a CIF in respect of assets which it has securitised are adequate having regard to the economic substance of the transaction, including the degree of risk transfer achieved;

(e) the exposure to, measurement and management of liquidity risk by CIFs, including the development of alternative scenario analyses, the management of risk mitigants (in particular the level, composition and quality of liquidity buffers) and effective contingency plans;

(f) the impact of diversification effects and how such effects are factored into the risk measurement system;

(g) the results of stress tests carried out by CIFs using an internal model to calculate market risk own funds requirements under Part Three, Title IV, Chapter 5 of Regulation (EU) No 575/2013;

(h) the geographical location of CIFs' exposures;

(i) the business model of the CIF;

(j) the assessment of systemic risk, in accordance with the criteria set out in section 70 of the Law and in paragraph 24.

(2) For the purposes of point (e) of subparagraph (1), the Commission shall regularly

carry out a comprehensive assessment of the overall liquidity risk management by CIFs and promote the development of sound internal methodologies. While conducting those reviews, the Commission shall have regard to the role played by CIFs in the financial markets. The Commission shall duly consider the potential impact of its decisions on the stability of the financial system in all other Member States concerned.

(3) The Commission shall monitor whether a CIF has provided implicit support to a securitisation. If a CIF is found to have provided implicit support on more than one occasion the Commission shall take appropriate measures reflective of the increased expectation that it will provide future support to its securitisation thus failing to achieve a significant transfer of risk.

(4) For the purposes of the determination to be made under section 70 of the Law and paragraph 24(3), the Commission shall consider whether the valuation adjustments taken for positions or portfolios in the trading book, as set out in Article 105 of Regulation (EU) No 575/2013, enable the CIF to sell or hedge out its positions within a short period without incurring material losses under normal market conditions.

(5) The review and evaluation performed by the Commission shall include the exposure of CIFs to the interest rate risk arising from non-trading activities. Measures shall be required at least in the case of CIFs whose economic value declines by more than 20 % of their own funds as a result of a sudden and unexpected change in interest rates of 200 basis points or such change as defined in the EBA guidelines.

(6) The review and evaluation performed by the Commission shall include the exposure of CIFs to the risk of excessive leverage as reflected by indicators of excessive leverage, including the leverage ratio determined in accordance with Article 429 of Regulation (EU) No 575/2013. In determining the adequacy of the leverage ratio of CIFs and of the arrangements, strategies, processes and mechanisms implemented by CIFs to manage the risk of excessive leverage, the Commission shall take into account the business model of those CIFs.

(7) The review and evaluation conducted by the Commission shall include governance arrangements of CIFs, their corporate culture and values, and the ability of members of the board of directors to perform their duties. In conducting that review and evaluation, the Commission shall, at least, have access to agendas and supporting documents for meetings of the board of directors and its committees, and the results of the internal or external evaluation of performance of the board of directors.

Supervisory examination programme

26. (1) The Commission shall, at least annually, adopt a supervisory examination programme for the CIFs they supervise. Such programme shall take into account the supervisory review and evaluation process under section 70 of the Law and paragraph 24. It shall contain the following:

(a) an indication of how the Commission intends to carry out its tasks and allocate its resources;

(b) an identification of which CIFs are intended to be subject to enhanced supervision and the measures taken for such supervision as set out in subparagraph (3);

(c) a plan for inspections at the premises used by a CIF, including its branches and subsidiaries established in other Member States in accordance with sections 131 & 134 of the Law and Paragraphs 43 and 46 of the Directive.

(2) Supervisory examination programmes shall include the following CIFs:

(a) CIFs for which the results of the stress tests referred to in points (a) and (g) of Paragraph 25(1) and Paragraph 27, or the outcome of the supervisory review and evaluation process under section 70 of the Law indicate significant risks to their ongoing financial soundness or indicate breaches of this Directive, the Law and of Regulation (EU) No 575/2013;

(b)CIFs that pose systemic risk to the financial system;

(c) any other CIF for which the Commission deems it to be necessary.

(3) Where appropriate under section 70 of the Law and paragraph 24, the following measures shall, in particular, be taken if necessary:

(a) an increase in the number or frequency of on-site inspections of the CIF;

(b) a permanent presence of the Commission at the CIF;

(c) additional or more frequent reporting by the CIF;

(d) additional or more frequent review of the operational, strategic or business plans of the CIF;

(e) thematic examinations monitoring specific risks that are likely to materialise.

(4) Adoption of a supervisory examination programme by the Commission shall not prevent the competent authorities of the host Member State from carrying out, on a case-by-case basis, on-the-spot checks and inspections of the activities carried out by branches of CIFs on their territory in accordance with section 134(5) of the Law, and vice versa.

Supervisory stress testing

27. The Commission shall carry out as appropriate but at least annually supervisory stress tests on CIFs they supervise, to facilitate the review and evaluation process under section 70 of the Law and paragraph 24.

Ongoing review of the permission to use internal approaches

28. (1) The Commission shall review on a regular basis, and at least every 3 years, CIFs' compliance with the requirements regarding approaches that require permission by the Commission before using such approaches for the calculation of own funds requirements in accordance with Part Three of Regulation (EU) No 575/2013. The Commission shall have particular regard to changes in a CIF's business and to the implementation of those approaches to new products. Where material deficiencies are identified in risk capture by a CIF's internal approach, the Commission shall ensure they are rectified or take appropriate steps to mitigate their consequences, including by imposing higher multiplication factors, or imposing capital add-ons, or taking other appropriate and effective measures.

(2) The Commission shall in particular review and assess whether the CIF uses well

developed and up-to-date techniques and practices for those approaches.

(3) If for an internal market risk model numerous overshootings referred to in Article 366 of Regulation (EU) No 575/2013 indicate that the model is not or is no longer sufficiently accurate, the Commission shall revoke the permission for using the internal model or impose appropriate measures to ensure that the model is improved promptly.

(4) If a CIF has received permission to apply an approach that requires permission by the Commission before using such an approach for the calculation of own funds requirements in accordance with Part Three of Regulation (EU) No 575/2013 but does not meet the requirements for applying that approach anymore, the Commission shall require the CIF to either demonstrate to the satisfaction of the Commission that the effect of non-compliance is immaterial where applicable in accordance with Regulation (EU) No 575/2013 or present a plan for the timely restoration of compliance with the requirements and set a deadline for its implementation. The Commission shall require improvements to that plan if it is unlikely to result in full compliance or if the deadline is inappropriate. If the CIF is unlikely to be able to restore compliance within an appropriate deadline and, where applicable, has not satisfactorily demonstrated that the effect of non-compliance is immaterial, the permission to use the approach shall be revoked or limited to compliant areas or those where compliance can be achieved within an appropriate deadline.

Section 4

Supervisory measures and powers

Application of supervisory measures to CIFs with similar risk profiles

29. (1) Where the Commission determines under section 70 of the Law and paragraph 24 that CIFs with similar risk profiles such as similar business models or geographical location of exposures, are or might be exposed to similar risks or pose similar risks to the financial system, it may apply the supervisory review and evaluation process referred to in section 70 of the Law and paragraph 24 to those CIFs in a similar or identical manner. These types of CIFs may in particular be determined in accordance with the criteria referred to in paragraph 25(1)(j).

(2) The Commission shall notify EBA where it applies subparagraph (1).

Supervisory powers

30. (1) For the purposes of sections 70 and 73(1) of the Law, paragraph 25(4) and paragraph 28(4) of this Directive and the application of Regulation (EU) No 575/2013, the Commission has at least the following powers:

(a) to require CIFs to hold own funds in excess of the requirements set out in Chapter 3 of this Part and in Regulation (EU) No 575/2013 relating to elements of risks and risks not covered by Article 1 of that Regulation;

(b) to require the reinforcement of the arrangements, processes, mechanisms and strategies implemented in accordance with sections 18(2)(e) and (f), 18(3) and 68 of the Law;

(c) to require CIFs to present a plan to restore compliance with supervisory requirements pursuant to this Directive, the Law and to Regulation (EU) No 575/2013 and set a deadline for its implementation, including improvements to that plan regarding scope and deadline;

(d) to require CIFs to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;

(e) to restrict or limit the business, operations or network of CIFs or to request the divestment of activities that pose excessive risks to the soundness of a CIF;

(f) to require the reduction of the risk inherent in the activities, products and systems of CIFs;

(g) to require CIFs to limit variable remuneration as a percentage of net revenues where it is inconsistent with the maintenance of a sound capital base;

(h) to require CIFs to use net profits to strengthen own funds;

(i) to restrict or prohibit distributions or interest payments by a CIF to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the CIF;

(j) to impose additional or more frequent reporting requirements, including reporting on capital and liquidity positions;

(k) to impose specific liquidity requirements, including restrictions on maturity mismatches between assets and liabilities;

(l) to require additional disclosures.

(2) The additional own funds requirements referred to in point (a) of subparagraph (1) shall be imposed by the Commission at least where,

(a) a CIF does not meet the requirement set out in sections 18(2)(e) and (f), 18(3), 20 and 68 of the Law or in Article 393 of Regulation (EU) No 575/2013;

(b) risks or elements of risks are not covered by the own funds requirements set out in Chapter 3 of this Part or in Regulation (EU) No 575/2013;

(c) the sole application of other administrative measures is unlikely to improve the arrangements, processes, mechanisms and strategies sufficiently within an appropriate timeframe;

(d) the review referred to in paragraph 25(4) or 28(4) reveals that the non-compliance with the requirements for the application of the respective approach will likely lead to inadequate own funds requirements;

(e) the risks are likely to be underestimated despite compliance with the applicable requirements of this Directive, of the Law and of Regulation (EU) No 575/2013; or

(f) a CIF reports to the Commission in accordance with Article 377(5) of Regulation (EU) No 575/2013 that the stress test results referred to in that Article materially

exceed its own funds requirement for the correlation trading portfolio.

(3) For the purposes of determining the appropriate level of own funds on the basis of the review and evaluation carried out in accordance with Section 3 of this Chapter, the Commission shall assess whether any imposition of an additional own funds requirement in excess of the own funds requirement is necessary to capture risks to which a CIF is or might be exposed, taking into account the following:

(a) the quantitative and qualitative aspects of a CIF's assessment process referred to in section 68 of the Law;

(b) a CIF's arrangements, processes and mechanisms referred to in sections 18(2)(e), (f), 18(3) and 20 of the Law;

(c) the outcome of the review and evaluation carried out in accordance with section 70 of the Law or paragraph 28;

(d) the assessment of systemic risk.

Specific liquidity requirements

31. For the purposes of determining the appropriate level of liquidity requirements on the basis of the review and evaluation carried out in accordance with Section 3 of this Part, the Commission shall assess whether any imposition of a specific liquidity requirement is necessary to capture liquidity risks to which a CIF is or might be exposed, taking into account the following:

(a) the particular business model of the CIF;

(b) the CIF's arrangements, processes and mechanisms referred to in Section 2 of this Chapter and in particular in paragraph 16;

(c) the outcome of the review and evaluation carried out in accordance with section 70 of the Law and paragraph 24;

(d) systemic liquidity risk that threatens the integrity of the financial markets of Republic.

In particular, without prejudice to section 74 of the Law, the Commission should consider the need to apply administrative penalties or other administrative measures, including prudential charges, the level of which broadly relates to the disparity between the actual liquidity position of a CIF and any liquidity and stable funding requirements established at national or Union level.

Specific publication requirements

32. (1) The information referred to in Part Eight of Regulation (EU) No 575/2013, shall be audited in accordance with the Auditors and Statutory Audits of Annual and Consolidated Accounts Law of 2009 and shall be published, where possible, as an annex to the annual financial statements or, where applicable, to the consolidated financial statements of the CIF concerned or on the CIF's website. The CIF will be responsible to submit its external auditors' verification report to the Commission the latest within five months from the end of each financial year

(2) The Commission may require parent undertakings to publish annually, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure of the group of institutions in accordance with section 18 2(e) and (f) of the Law and Paragraph 34(2) of this Directive.

Section 5

Level of Application

Internal capital adequacy assessment process

33. (1) Every CIF which is neither a subsidiary in the Republic, nor a parent undertaking, and every CIF not included in the consolidation pursuant to Article 19 of Regulation (EU) No 575/2013, shall meet the obligations set out in section 68 of the Law on an individual basis.

Where the Commission waives the application of own funds requirements on a consolidated basis provided for in Article 15 of Regulation (EU) No 575/2013, the requirements of section 68 of the Law shall apply on an individual basis.

(2) Parent institutions in the Republic, to the extent and in the manner prescribed in Part One, Title II, Chapter 2, Sections 2 and 3 of Regulation (EU) No 575/2013 are required to meet the obligations set out in section 68 of the Law on a consolidated basis.

(3) CIFs controlled by a parent financial holding company or a parent mixed financial holding company in the Republic, to the extent and in the manner prescribed in Part One, Title II, Chapter 2, Sections 2 and 3 of Regulation (EU) No 575/2013 are required to meet the obligations set out section 68 of the Law on the basis of the consolidated situation of that financial holding company or mixed financial holding company.

Where more than one CIF is controlled by a parent financial holding company or a parent mixed financial holding company in the Republic, the first subparagraph shall apply only to the CIF to which supervision on a consolidated basis applies in accordance with paragraph 36.

(4) Subsidiary CIFs are required to apply the requirements set out in section 68 of the Law on a sub-consolidated basis if those CIFs, or the parent undertaking where it is a financial holding company or mixed financial holding company, have an institution or a financial institution or an asset management company as defined in Chapter I Article 2(7) of Directive DI144-2007-11, as a subsidiary in a third country, or hold a participation in such an undertaking.

CIFs and undertakings arrangements, processes and mechanisms

34. (1) CIFs are required to meet the obligations set out in Section 2 of this Chapter on an individual basis.

(2) The parent undertakings and subsidiaries subject to this Directive are required to meet the obligations set out in Section 2 of this Chapter on a consolidated or sub-consolidated basis, to ensure that their arrangements, processes and mechanisms required by Section 2 of this Chapter are consistent and well-integrated and that any data and information relevant to the purpose of supervision can be produced. In particular, parent undertakings and subsidiaries subject to this Directive are required to implement such arrangements, processes and mechanisms in their subsidiaries not subject to this Directive. Those arrangements, processes and mechanisms shall also be consistent and well-integrated and those subsidiaries shall also be able to produce any data and information relevant to the purpose of supervision.

(3) Obligations resulting from Section 2 of this Chapter concerning subsidiary undertakings, not themselves subject to this Directive, shall not apply if the EU parent institution or institutions controlled by an EU parent financial holding company or EU parent mixed financial holding company, can demonstrate to the Commission that the application of Section 2 is unlawful under the laws of the third country where the subsidiary is established.

Review and evaluation and supervisory measures

35. (1) The Commission shall apply the review and evaluation process referred to in Section 3 of this Chapter and the supervisory measures referred to in Section 4 of this Chapter in accordance with the level of application of the requirements of Regulation (EU) No 575/2013 set out in Part One, Title II of that Regulation.

(2) Where the Commission waives the application of own funds requirements on a consolidated basis as provided for in Article 15 of Regulation (EU) No 575/2013, the requirements of section 70 of the Law and paragraph 24 shall apply to the supervision of CIFs on an individual basis.

Chapter 2

Supervision on a consolidated basis

Section 1

Principles for conducting supervision on a consolidated basis

Determination of the consolidating supervisor

36. (1) Where a parent undertaking is a parent CIF, , supervision on a consolidated basis shall be exercised by the Commission.

(2)Where the parent of a CIF is a parent financial holding company or parent mixed financial holding company in a Member State or an EU parent financial holding company or EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the Commission.

(3) Where institutions authorised in two or more Member States have as their parent the same parent financial holding company, the same parent mixed financial holding company in a Member State, the same EU parent financial holding company or the same EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the Commission in case the financial holding company or mixed financial holding company was set up, in the Republic.

Where the parent undertakings of institutions authorised in two or more Member States comprise more than one financial holding company or mixed financial holding company with head offices in different Member States and there is a credit institution in each of those States, supervision on a consolidated basis shall be exercised by the competent authority of the credit institution with the largest balance sheet total.

(4) Where more than one institution authorised in the Union has as its parent the same financial holding company or mixed financial holding company and none of those institutions has been authorised in the Member State in which the financial holding company or mixed financial holding company was set up, supervision on a consolidated basis shall be exercised by the Commission in case the CIF has the largest balance sheet total, which shall be considered, for the purposes of this Directive, as the institution controlled by an EU parent financial holding company or EU parent mixed financial holding company.

(5) In particular cases, the Commission may on a case by case basis, and by common agreement, waive the criteria referred to in subparagraphs (3) and (4) if their application would be inappropriate, taking into account the CIFs and the relative importance of their activities in different countries, and appoint a different competent authority to exercise supervision on a consolidated basis. In such cases, before taking its decision, the Commission shall give the EU parent institution, EU parent financial holding company, EU parent mixed financial holding company, or institution with the largest balance sheet

total, as appropriate, an opportunity to state its opinion on that decision.

(6) The Commission shall notify the EC and EBA of any agreement falling within subparagraph (5).

Coordination of supervisory activities by the consolidating supervisor

37. (1) In addition to the obligations imposed by this Directive and by Regulation (EU) No 575/2013, the Commission, when acting as a consolidating supervisor, shall carry out the following tasks:

(a) coordination of the gathering and dissemination of relevant or essential information in going concern and emergency situations;

(b) planning and coordination of supervisory activities in going- concern situations, including in relation to the activities referred to in Part II, Chapter 2, in cooperation with the competent authorities involved;

(c) planning and coordination of supervisory activities in cooperation with the competent authorities involved, and if necessary with ESCB central banks, in preparation for and during emergency situations, including adverse developments in institutions or in financial markets using, where possible, existing channels of communication for facilitating crisis management.

(2) Where the Commission as consolidating supervisor fails to carry out the tasks referred to in subparagraph (1) or where the competent authorities do not cooperate with the Commission (the consolidating supervisor) to the extent required in carrying out the tasks in subparagraph (1), any of the competent authorities concerned may refer the matter to EBA and request its assistance under Article 19 of Regulation (EU) No 1093/2010.

(3) The planning and coordination of supervisory activities referred to in point (c) of subparagraph includes exceptional measures referred to Section 41 of the Law, the preparation of joint assessments, the implementation of contingency plans and communication to the public.

Joint decisions on institution-specific prudential requirements

38. (1) The Commission as consolidating supervisor and the competent authorities responsible for the supervision of subsidiaries of an EU parent institution or an EU parent financial holding company or EU parent mixed financial holding company in a Member State shall do everything within their power to reach a joint decision:

(a) on the application of sections 68 and 70 of the Law to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of paragraph 30(1) to each entity within the group of institutions and on a consolidated basis;

(b) on measures to address any significant matters and material findings relating to liquidity supervision including relating to the adequacy of the organisation and the treatment of risks as required pursuant to paragraph 16 and relating to the need for institution-specific liquidity requirements in accordance with paragraph 31 of this Directive.

(2) The joint decisions referred to in subparagraph (1) shall be reached:

(a) for the purpose of subparagraph (1)(a), within four months after submission by the Commission as consolidating supervisor of a report containing the risk assessment of the group of institutions in accordance with sections 68 and 70 of the Law and paragraph 30(1) of the Directive to the other relevant competent authorities;

(b) for the purposes of subparagraph (1)(b), within one month after submission by the Commission (the consolidating supervisor) of a report containing the assessment of the liquidity risk profile of the group of institutions in accordance with paragraphs 16 and 31 of this Directive.

The joint decisions shall also duly consider the risk assessment of subsidiaries performed by relevant competent authorities in accordance with sections 68 and 70 of the Law.

The joint decisions shall be set out in documents containing full reasons which shall be provided to the EU parent institution by the Commission (the consolidating supervisor). In the event of disagreement, the Commission (the consolidating supervisor) shall at the request of any of the other competent authorities concerned consult EBA. The Commission as consolidating supervisor may consult EBA on its own initiative.

(3) In the absence of such a joint decision between the competent authorities within the time periods referred to in subparagraph (2), a decision on the application of sections 68 and 70 of the Law and paragraphs 16, 30(1) and 31 of this Directive shall be taken on a consolidated basis by the Commission as consolidating supervisor after duly considering the risk assessment of subsidiaries performed by relevant competent authorities. If, at the end of the time periods referred to in subparagraph (2), any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the Commission as consolidating supervisor shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The time periods referred to in subparagraph (2) shall be deemed the conciliation periods within the meaning of Regulation (EU) No 1093/2010. EBA shall take its decision within 1 month. The matter shall not be referred to EBA after the end of the four month period or one-month period, as applicable, or after a joint decision has been reached.

The decision on the application of sections 68 and 70 of the Law and paragraphs 16, 30(1) and 31 of this Directive shall be taken by the respective competent authorities responsible for supervision of subsidiaries of an EU parent credit institution or a EU parent financial holding company or EU parent mixed financial holding company on an individual or sub-consolidated basis after duly considering the views and reservations expressed by the Commission as consolidating supervisor. If, at the end of any of the time periods referred to in subparagraph (2), any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the competent authorities shall defer their decision and await any decision that EBA shall take in accordance with Article 19(3) of that Regulation, and shall take their decision in conformity with the decision of EBA. The time periods referred to in subparagraph (2) shall be deemed the conciliation periods within the meaning of that Regulation. EBA shall take its decision within 1 month. The matter shall not be referred to EBA after the end of the four-month or one-month period, as applicable, or after a joint decision has been reached.

The decisions shall be set out in a document containing full reasons and shall take into account the risk assessment, views and reservations of the other competent authorities expressed during the time periods referred to in subparagraph (2). The document shall be provided by the Commission (the consolidating supervisor) to all competent authorities concerned and to the EU parent institution.

Where EBA has been consulted, all the competent authorities shall consider its advice, and explain any significant deviation there from.

(4) The joint decisions referred to in subparagraph (1) and the decisions taken by the competent authorities in the absence of a joint decision referred to in subparagraph (3) shall be recognised as determinative and applied by the competent authorities in the Member States concerned.

The joint decisions referred to in subparagraph (1) and any decision taken in the absence of a joint decision in accordance with subparagraph (3), shall be updated on an annual basis or, in exceptional circumstances, where a competent authority responsible for the supervision of subsidiaries of an EU parent institution or, an EU parent financial holding company or EU parent mixed financial holding company makes a written and fully reasoned request to the Commission (the consolidating supervisor) to update the decision on the application of paragraphs 30(1) and 31. In the latter case, the update may be addressed on a bilateral basis between the Commission and the competent authority making the request.

Information requirements in emergency situations **39.** (1) Where an emergency situation, including a situation as described in Article 18 of Regulation (EU) No 1093/2010 or a situation of adverse developments in markets, arises, which potentially jeopardises the market liquidity and the stability of the financial system in any of the Member State where entities of a group have been authorised or where significant branches referred to in section 131B of the Law are established, the Commission as consolidating supervisor shall, subject to sections 129, 132 and 136 of the Law, alert as soon as is practicable, EBA and the authorities referred to in sections 132(4) and 132A of the Law and shall communicate all information essential for the pursuance of their tasks. Those obligations shall apply to all competent authorities.

Where possible, the competent authority and the authority referred to in section 132(4) of the Law shall use existing channels of communication.

(2) The Commission shall, where it needs information which has already been given to another competent authority, contact that authority where possible in order to prevent duplication of reporting to the various authorities involved in supervision.

Coordination and cooperation arrangements **39A.** (1) In order to facilitate and establish effective supervision, the consolidating supervisor and the other competent authorities shall have written coordination and cooperation arrangements in place. Under those arrangements additional tasks may be entrusted to the consolidating supervisor and procedures for the decision-making process and for cooperation with other competent authorities, may be specified.

(2) The competent authorities responsible for authorising the subsidiary of a parent undertaking which is an institution may, by bilateral agreement, in accordance with Article 28 of Regulation (EU) No 1093/2010, delegate their responsibility for supervision to the competent authorities which authorised and supervise the parent undertaking so that they assume responsibility for supervising the subsidiary in accordance with this Directive.

Colleges of supervisors **40.** (1) The Commission as a consolidating supervisor shall establish colleges of supervisors to facilitate the exercise of the tasks referred to in paragraphs 37, 38 and 39 and subject to the confidentiality requirements of subparagraph (2) of this paragraph and to Union law, ensure appropriate coordination and cooperation with relevant third-country supervisory authorities where appropriate.

Colleges of supervisors shall provide a framework for the Commission as a consolidating supervision, EBA and the other competent authorities concerned to carry out the following tasks:

(a) exchanging information between each other and with EBA in accordance with Article 21 of Regulation (EU) No 1093/2010;

(b) agreeing on voluntary entrustment of tasks and voluntary delegation of responsibilities where appropriate;

(c) determining supervisory examination programmes referred to in paragraph 26 based on a risk assessment of the group in accordance with section 70 of the Law and paragraph 24;

(d) increasing the efficiency of supervision by removing unnecessary duplication of supervisory requirements, including in relation to the information requests referred to in paragraphs 39 and 41(3);

(e) consistently applying the prudential requirements under this Directive, under the Law and under Regulation (EU) No 575/2013 across all CIFs within a group without prejudice to the options and discretions available in Union law;

(f) applying 37(1)(c) taking into account the work of other forums that may be established in that area.

(2) The competent authorities participating in the colleges of supervisors and EBA shall cooperate closely. The confidentiality requirements under sections 129, 132, 132A, 132B and 136 the Law shall not prevent the competent authorities from exchanging confidential information within colleges of supervisors. The establishment and functioning of colleges of supervisors shall not affect the rights and responsibilities of the competent authorities under this Directive, under the Law and under Regulation (EU) No 575/2013.

(3) The establishment and functioning of the colleges shall be based on written arrangements referred to paragraph 39A, determined after consulting competent authorities concerned by the Commission as a consolidating supervisor.

(4) The competent authorities responsible for the supervision of subsidiaries of an EU parent institution or an EU parent financial holding company or EU parent mixed financial holding company and the competent authorities of a host Member State where significant branches as referred to in section 131A of the Law are established, ESCB central banks as appropriate, and third countries' supervisory authorities where appropriate and subject to confidentiality requirements that are equivalent, in the opinion of all competent authorities, to the requirements under sections 129, 132, 132A, 132B and 136 of the Law may participate in colleges of supervisors.

(5) The Commission as a consolidating supervisor shall chair the meetings of the college and shall decide which competent authorities participate in a meeting or in an activity of the college. The Commission shall keep all members of the college fully informed, in advance, of the organisation of such meetings, the main issues to be discussed and the activities to be considered. The Commission shall also keep all the members of the college

fully informed, in a timely manner, of the actions taken in those meetings or the measures carried out.

(6) The decision of the Commission shall take account of the relevance of the supervisory activity to be planned or coordinated for those authorities, in particular the potential impact on the stability of the financial system in the Member States concerned and the obligations referred to in section 131A of the Law.

(7) The Commission, subject to the confidentiality requirements under sections 129, 132, 132A, 132B and 136 of the Law, shall inform EBA of the activities of the college of supervisors, including in emergency situations, and communicate to EBA all information that is of particular relevance for the purposes of supervisory convergence.

In the event of a disagreement between competent authorities on the functioning of supervisory colleges, any of the competent authorities concerned may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

Cooperation obligations

41. (1) The competent authorities shall cooperate closely with each other. They shall provide one another with any information which is essential or relevant for the exercise of the other authorities' supervisory tasks under the Directive 2013/36/EU and Regulation (EU) No 575/2013. In that regard, the competent authorities shall communicate on request all relevant information and shall communicate on their own initiative all essential information.

The Commission shall cooperate with EBA for the purposes of this Directive, the Law and Regulation (EU) No 575/2013, in accordance with Regulation (EU) No 1093/2010.

The Commission shall provide EBA with all information necessary to carry out its duties under this Directive, under the Law, under Regulation (EU) No 575/2013, and under Regulation (EU) No 1093/2010, in accordance with Article 35 of Regulation (EU) No 1093/2010.

Information referred to in the first subparagraph shall be regarded as essential if it could materially influence the assessment of the financial soundness of an institution or financial institution in another Member State.

In particular, consolidating supervisors of EU parent institutions and institutions controlled by EU parent financial holding companies or EU parent mixed financial holding companies shall provide the competent authorities in other Member States who supervise subsidiaries of those parent undertakings with all relevant information. In determining the extent of relevant information, the importance of those subsidiaries within the financial system in those Member States shall be taken into account.

The essential information referred to in the first subparagraph shall include, in particular, the following items:

(a) identification of the group's legal structure and the governance structure including organisational structure, covering all regulated entities, non-regulated entities, non-regulated subsidiaries and significant branches belonging to the group, the parent

undertakings, in accordance with section 18 (2)(e) and (f) of the Law and paragraph 34(2) of this Directive, and of the competent authorities of the regulated entities in the group;

(b) procedures for the collection of information from the institutions in a group, and the checking of that information;

(c) adverse developments in institutions or in other entities of a group, which could seriously affect the institutions;

(d) significant penalties and exceptional measures taken by competent authorities in accordance with this Directive and the Law, including the imposition of a specific own fund requirement under paragraph 30 and the imposition of any limitation on the use of the Advanced Measurement Approach for the calculation of the own funds requirements under Article 312(2) of Regulation (EU) No 575/2013.

(2) The Commission may refer to EBA any of the following situations:

(a) where a competent authority has not communicated essential information;

(b) where a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within a reasonable time.

(3) The competent authorities responsible for the supervision of institutions controlled by an EU parent institution shall where possible contact the consolidating supervisor when they need information regarding the implementation of approaches and methodologies set out in the Directive 2013/36/EU and in Regulation (EU) No 575/2013 that may already be available to the consolidating supervisor.

(4) The competent authorities concerned shall, before taking a decision, consult each other with regard to the following items, where such a decision are of importance for other competent authorities' supervisory tasks:

(a) changes in the shareholder, organisational or management structure of CIFs in a group, which require the approval or authorisation of competent authorities; and

(b) significant penalties or exceptional measures taken by competent authorities, including the imposition of a specific own funds requirement under paragraph 30 and the imposition of any limitation on the use of the advances measurement approaches for the calculation of the own funds requirements under Article 312(2) of Regulation (EU) No 575/2013.

For the purposes of point (b), the consolidating supervisor shall always be consulted.

However, the Commission may decide not to consult other competent authorities in cases of urgency or where such consultation could jeopardise the effectiveness of its decision. In such cases, the Commission shall, without delay, inform the other competent authorises after taking its decision.

Checking information concerning entities in other Member States

42. Where, in applying this Directive, the Law and Regulation (EU) No 575/2013, the Commission wishes in specific cases to check the information concerning an institution, a financial holding company, a mixed financial holding company, a financial institution, an ancillary services undertaking, a mixed-activity holding company, a subsidiary as referred to in paragraph 49 or a subsidiary as referred to in paragraph 43(3), situated in another Member State, it shall ask the competent authorities of that other Member State to have that check carried out. The authorities which receive such a request shall, within the framework of their competence, act upon it either by carrying out the check themselves, by allowing the Commission to carry it out, or by allowing an auditor or expert to carry it out. The Commission may, if it so wishes, participates in the check where it does not carry out the check itself.

Section 2

Financial holding companies, mixed financial holding companies and mixed-activity holding companies

Inclusion of holding companies in consolidated supervision

43. (1) The Commission shall adopt any measures necessary, where appropriate, to include financial holding companies and mixed financial holding companies in consolidated supervision.

(2) Where a subsidiary that is a CIF is not included in supervision on a consolidated basis under one of the cases provided for in Article 19 of Regulation (EU) No 575/2013, the Commission may ask the parent undertaking for information which may facilitate its supervision of that subsidiary.

(3) The Commission, when being responsible for exercising supervision on a consolidated basis, may ask the subsidiaries of a CIF, a financial holding company or mixed financial holding company, which are not included within the scope of supervision on a consolidated basis for the information referred to in paragraph 46. In such a case, the procedures for transmitting and checking the information set out in that paragraph shall apply.

Supervision of mixed financial holding companies

44. (1) Where a mixed financial holding company is subject to equivalent provisions under this Directive and under Directive DI144-2007-11 for the supplementary supervision of investment firms in a financial conglomerate, in particular in terms of risk-based supervision, the Commission, acting as the consolidating supervisor may, on a case by case basis and after consulting the other competent authorities responsible for the supervision of subsidiaries, apply only Directive DI144-2007-11 to that mixed financial holding company.

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(2) Where a mixed financial holding company is subject to equivalent provisions under this Directive and under Insurance Services and Other Related Issues Law, in particular in terms of risk-based supervision, the Commission, acting as the consolidating supervisor may, on a case by case basis and in agreement with the group supervisor in the insurance sector, apply to that mixed financial holding company only the provisions of this Directive relating to the most significant financial sector as defined in Article 3(2) of Directive DI144-2007-11.

(3) The Commission, acting as the consolidating supervisor shall inform EBA and EIOPA of the decisions taken under subparagraphs (1) and (2).

Qualification of directors

45. The members of the board of directors of a financial holding company or mixed financial holding company are required to be of sufficiently good repute and possess sufficient knowledge, skills and experience as referred to in section 12(1) of the Law to perform those duties, taking into account the specific role of a financial holding company or mixed financial holding company.

Requests for information and inspections

46. (1) Pending further coordination of consolidation methods, where the parent undertaking of one or more institutions is a mixed-activity holding company, the Commission responsible for the authorisation and supervision of at least one of those institutions shall, by approaching the mixed-activity holding company and its subsidiaries either directly or via the subsidiary CIF, require them to supply any information which would be relevant for the purpose of supervising those subsidiaries.

(2) The Commission may carry out, or have carried out by external inspectors, on-the-spot inspections to check information received from mixed-activity holding companies and their subsidiaries. If the mixed-activity holding company or one of its subsidiaries is an insurance undertaking, the procedure set out in paragraph 49 may also be used. If a mixed-activity holding company or one of its subsidiaries is situated in another Member State on-the-spot check of information shall be carried out in accordance with the procedure set out in paragraph 42.

Supervision

47. (1) Without prejudice to Part Four of Regulation (EU) No 575/2013, where the parent undertaking of one or more institutions is a mixed- activity holding company, Commission as the competent authority of the CIF shall exercise general supervision over transactions between the CIF and the mixed-activity holding company and its subsidiaries.

(2) CIFs are required to have in place adequate risk management processes and internal control mechanisms, including sound reporting and accounting procedures in order to identify, measure, monitor and control transactions with their parent mixed-activity holding company and its subsidiaries appropriately. Reporting by the CIF is required of any significant transaction with those entities other than the one referred to in Article 394 of Regulation (EU) No 575/2013. Those procedures and significant transactions shall be subject to overview by the Commission.

Exchange of information

48. (1) The Commission shall ensure that there are no legal impediments preventing the exchange, as between undertakings included within the scope of supervision on a consolidated basis, mixed-activity holding companies and their subsidiaries, or subsidiaries as referred to in paragraph 43(3), of any information which would be relevant for the purposes of supervision in accordance with paragraph 35 and Chapter 2 of this Part.

(2) Where a parent undertaking and any of its subsidiaries that are institutions are situated in different Member States, the competent authorities of each Member State shall communicate to each other all relevant information which may allow or aid the exercise of supervision on a consolidated basis.

Where the competent authorities of the Member State in which a parent undertaking is situated do not themselves exercise supervision on a consolidated basis pursuant to paragraph 36, they may be invited by the competent authorities responsible for exercising such supervision to ask the parent undertaking for any information which would be relevant for the purposes of supervision on a consolidated basis and to transmit it to those authorities.

(3) Exchange of the information referred to in subparagraph (2) between the competent authorities in the Republic is authorised, on the understanding that, in the case of financial holding companies, mixed financial holding companies, financial institutions or ancillary services undertakings, the collection or possession of information shall not imply that these competent authorities are required to play a supervisory role in relation to those institutions or undertakings standing alone.

Similarly, competent authorities of the Republic are authorised to exchange the information referred to in paragraph 46 on the understanding that the collection or possession of information does not imply that the competent authorities play a supervisory role in relation to the mixed-activity holding company and those of its subsidiaries which are not credit institutions, or to subsidiaries as referred to in paragraph 43(3).

Cooperation

49. (1) Where a CIF, financial holding company, mixed financial holding company or a mixed-activity holding company controls one or more subsidiaries which are insurance companies or other undertakings providing investment services which are subject to authorisation, the Commission and the authorities entrusted with the public task of supervising insurance undertakings or those other undertakings providing investment services shall cooperate closely. Without prejudice to their respective responsibilities, those authorities shall provide one another with any information likely to simplify their

task and to allow supervision of the activity and overall financial situation of the undertakings they supervise.

(2) Information received, within the framework of supervision on a consolidated basis, and in particular any exchange of information between competent authorities which is provided for in this Directive, shall be subject to professional secrecy requirements at least equivalent to those referred to under the Law for investment firms.

(3) The Commission, when acting as responsible for supervision on a consolidated basis, shall establish lists of the financial holding companies or mixed financial holding companies referred to in Article 11 of Regulation (EU) No 575/2013. Those lists shall be communicated to the competent authorities of the other Member States, to EBA and to the European Commission.

Assessment of equivalence of third countries' consolidated supervision

50. (1) Where a CIF, the parent undertaking of which is an institution or a financial holding company or mixed financial holding company, the head office of which is in a third country, is not subject to consolidated supervision under paragraph 36, the Commission shall assess whether the CIF is subject to consolidated supervision by a third-country supervisory authority which is equivalent to that governed by the principles set out in this Directive and the requirements of Part One, Title II, Chapter 2 of Regulation (EU) No 575/2013.

The assessment shall be carried out by the Commission, acting as the consolidated supervisor, if subparagraph (3) were to apply, at the request of the parent undertaking or of any of the regulated entities authorised in the Union or on its own initiative. The Commission shall consult the other competent authorities involved.

(2) The Commission, acting as the consolidated supervisor, carrying out the assessment referred to in subparagraph (1) shall take into account any such guidance. For that purpose, the Commission shall consult EBA before adopting a decision.

(3) In the absence of such equivalent supervision, the Commission may apply on a case by case basis this Directive and Regulation (EU) No 575/2013 to the CIFs mutatis mutandis or may apply other appropriate supervisory techniques which achieve the objectives of supervision on a consolidated basis of CIFs.

Those supervisory techniques shall, after consulting the other competent authorities involved, be agreed upon by the competent authority which would be responsible for consolidated supervision.

The Commission acting as a consolidating supervisor may in particular require the establishment of a financial holding company or mixed financial holding company which has its head office in the Union, and apply the provisions on consolidated supervision to the consolidated position of that financial holding company or the consolidated position of the institutions of that mixed financial holding company.

The supervisory techniques shall be designed to achieve the objectives of consolidated supervision as set out in Chapter 2 of this Part and shall be notified to the other competent authorities involved, to EBA and the EC.

Chapter 3

Capital Buffers

Section 1

Buffers

Definitions

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

(1) 'capital conservation buffer' means the own funds that a CIF is required to maintain in accordance with paragraph 52;

(2) '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;

(3) 'countercyclical buffer rate' means the rate that CIFs must apply in order to calculate their institution-specific countercyclical capital buffer, and that is set in accordance with the macroprudential authority or by a relevant third-country authority, as the case may be;

(4) '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;

(5) 'G-SII buffer' means the own funds that are required to be maintained in accordance with paragraph 54(1);

(6) 'institution-specific countercyclical capital buffer' means the own funds that a CIF is required to maintain in accordance with paragraph 53;

(7) 'macroprudential authority' means the Central Bank of Cyprus as it is provided in the Central bank Law and in the Macroprudential Supervision Law;

(8) 'O-SII buffer' means the own funds that may be required to be maintained in accordance with paragraph 54(2);

(9) 'systemic risk buffer' means the own funds that a CIF is or may be required to maintain in accordance with paragraph 55.

This Chapter shall not apply to CIFs that are not authorised to provide the investment services listed in points 3 and 6 of the Third Appendix, of Part I of the Law.

The application of the capital buffers, as well as the methods and applicable capital buffer rates, will be published, by way of directives, by the Macroprudential authority.

Requirement to maintain a capital conservation buffer

52. (1) CIFs are required to maintain in addition to the Common Equity Tier 1 capital maintained to meet the own funds requirement imposed by Article 92 of Regulation (EU) No 575/2013, 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 consolidated basis, as applicable in accordance with Part One, Title II of that Regulation.

(2) By way of derogation from subparagraph 1, small and medium sized CIFs, as these are defined by the Macroprudential Supervision Law, are exempted.

(3) CIFs shall not use Common Equity Tier 1 capital that is maintained to meet the requirement under subparagraph 1 of this paragraph to meet any requirements imposed under paragraph 30.

(4) Where a CIF fails to meet fully the requirement under subparagraph 1 of this paragraph, it shall be subject to the restrictions on distributions set out in paragraph 57(2) and (3).

Requirement to maintain an institution-specific countercyclical capital buffer

53. (1) According to the provisions of the Macroprudential Supervision Law, CIFs are required to maintain an institution-specific countercyclical capital buffer equivalent to their total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 multiplied by the weighted average of the countercyclical buffer rates calculated in accordance with the above Law on an individual and consolidated basis, as applicable in accordance with Part One, Title II of that Regulation.

(2) CIFs shall apply the specific requirements provided in the above Law in relation to subparagraph (1).

Global and other systemically important institutions

54. (1) According to the provisions of the Macroprudential Supervision Law, each G-SII shall, on a consolidated basis, maintain a G-SII buffer which shall correspond to the sub-category to which the G-SII is allocated. That buffer shall consist of and shall be supplementary to Common Equity Tier 1 capital.

(2) CIFs shall apply the specific requirements provided in the above Law in relation to subparagraph (1).

Requirement to maintain a systemic risk buffer

55. (1) According to the Macroprudential Supervision Law, CIFs may be required to maintain, in addition to the Common Equity Tier 1 capital maintained to meet the own funds requirement imposed by Article 92 of Regulation (EU) No 575/2013, a systemic risk buffer of Common Equity Tier 1 capital of at least 1 % based on the exposures to which the systemic risk buffer applies, on an individual, consolidated, or sub-consolidated basis, as applicable in accordance with Part One, Title II of that Regulation. CIFs may also be required to maintain the systemic risk buffer on an individual and on a consolidated level.

(2) CIFs shall apply the specific requirements provided in the above Law in relation to subparagraph (1).

Section 2

Setting and calculating countercyclical capital buffers

Calculation of institution-specific countercyclical capital buffer rates

56. (1) According to the Macroprudential Supervision Law, the institution-specific countercyclical capital buffer rate shall consist of the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the relevant credit exposures of the CIF are located or are applied for the purposes of this paragraph.

(2) CIFs shall apply the specific requirements provided in the above Law in relation to subparagraph (1).

Section 3

Capital conservation measures

Restrictions on distributions

57. (1) CIFs that meet the combined buffer requirement are prohibited from making a distribution in connection with Common Equity Tier 1 capital to an extent that would decrease its Common Equity Tier 1 capital to a level where the combined buffer requirement is no longer met.

(2) CIFs that fail to meet the combined buffer requirement shall be required to calculate the Maximum Distributable Amount ('MDA') in accordance with subparagraph 4 and to notify the Commission of that MDA.

Where the previous subparagraph applies, the Commission shall prohibit any such CIF from undertaking any of the following actions before it has calculated the MDA:

(a) make a distribution in connection with Common Equity Tier 1 capital;

(b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the CIF failed to meet the combined buffer requirements;

(c) make payments on Additional Tier 1 instruments.

(3) While a CIF fails to meet or exceed its combined buffer requirement, the Commission

shall prohibit it from distributing more than the MDA calculated in accordance with subparagraph 4 through any action referred to in points (a), (b) and (c) of Subparagraph 2.

(4) The Commission shall require institutions to calculate the MDA by multiplying the sum calculated in accordance with paragraph 5 by the factor determined in accordance with paragraph 6. The MDA shall be reduced by any of the actions referred to in point (a), (b) or (c) subparagraph 2.

(5) The sum to be multiplied in accordance with subparagraph 4 shall consist of:

(a) interim profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013 that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in point (a), (b) or (c) of the second subparapgraph of paragraph 2;

plus

(b) year-end profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013 that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in point (a), (b) or (c) of the second subparapgraph of paragraph 2

minus

(c) amounts which would be payable by tax if the items specified in points (a) and (b) of this subparagraph were to be retained.

(6) The factor shall be determined as follows:

(a) where the Common Equity Tier 1 capital maintained by the CIF which is not used to meet the own funds requirement under Article 92(1)(c) of Regulation (EU) No 575/2013, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the first (that is, the lowest) quartile of the combined buffer requirement, the factor shall be 0;

(b) where the Common Equity Tier 1 capital maintained by the CIF which is not used to meet the own funds requirement under Article 92(1)(c) of Regulation (EU) No 575/2013, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the second quartile of the combined buffer requirement, the factor shall be 0,2;

(c) where the Common Equity Tier 1 capital maintained by the CIF which is not used to meet the own funds requirement under Article 92(1)(c) of Regulation (EU) No 575/2013, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the third quartile of the combined buffer requirement, the factor shall be 0,4;

(d) where the Common Equity Tier 1 capital maintained by the CIF which is not used to meet the own funds requirement under Article 92(1)(c) of Regulation (EU) No 575/2013, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the fourth (that is, the highest) quartile of the combined buffer requirement, the factor shall be 0,6;

The lower and upper bounds of each quartile of the combined buffer requirement shall be calculated as follows:

Lower bound of quartile = Combined buffer requirement X (Qn-1)

4

Upper bound of quartile = Combined buffer requirement X Qn

4

"Qn" indicates the ordinal number of the quartile concerned

(7) The restrictions imposed by this subparagraph shall only apply to payments that result in a reduction of Common Equity Tier 1 capital or in a reduction of profits, and where a suspension of payment or failure to pay does not constitute an event of default or a condition for the commencement of proceedings under the insolvency regime applicable to CIF.

(8) Where a CIF fails to meet the combined buffer requirement and intends to distribute any of its distributable profits or undertake an action referred to in points (a), (b) and (c) of the subparagraph 2, it shall notify the Commission and provide the following information:

(a) the amount of capital maintained by the institution, subdivided as follows

(i) Common Equity Tier 1 capital,
(ii) Additional Tier 1 capital,
(iii) Tier 2 capital;

(b) the amount of its interim and year-end profits;

(c) the MDA calculated in accordance with paragraph 4;

(d) the amount of distributable profits it intends to allocate between the following:

(i) dividend payments,

(ii) share buybacks,

(iii) payments on Additional Tier 1 instruments,

(iv) the payment of variable remuneration or discretionary pension benefits, whether by creation of a new obligation to pay, or payment pursuant to an obligation to pay created at a time when the CIF failed to meet its combined buffer requirements.

(9) CIFs shall maintain arrangements to ensure that the amount of distributable profits and the MDA are calculated accurately, and shall be able to demonstrate that accuracy to the Commission on request.

(10) For the purposes of subparagraphs 1 and 2, a distribution in connection with Common Equity Tier 1 capital shall include the following:

(a) a payment of cash dividends;

(b) a distribution of fully or partly paid bonus shares or other capital instruments referred to in Article 26(1)(a) of Regulation (EU) No 575/2013;

(c) a redemption or purchase by an institution of its own shares or other capital instruments referred to in Article 26(1)(a) of that Regulation;

(d) a repayment of amounts paid up in connection with capital instruments referred to in Article 26(1)(a) of that Regulation;

(e) a distribution of items referred to in points (b) to (e) of Article 26(1) of that Regulation.

Capital Conservation Plan **58.** (1) Where a CIF fails to meet its combined buffer requirement, it shall prepare a capital conservation plan and submit it to the Commission no later than five working days after it identified that it was failing to meet that requirement, unless the Commission authorises a longer delay up to 10 days.

The Commission shall grant such authorisations only on the basis of the individual situation of a CIF and taking into account the scale and complexity of the CIF's activities.

(2) The capital conservation plan shall include the following:

(a) estimates of income and expenditure and a forecast balance sheet;

(b) measures to increase the capital ratios of the institution;

(c) a plan and timeframe for the increase of own funds with the objective of meeting fully the combined buffer requirement;

(d) any other information that the Commission considers to be necessary to carry out the assessment required by subparagraph 3.

(3) The Commission shall assess the capital conservation plan, and shall approve the plan only if it considers that the plan, if implemented, would be reasonably likely to conserve or raise sufficient capital to enable the CIF to meet its combined buffer requirements within a period which the Commission considers appropriate.

(4) If the Commission does not approve the capital conservation plan in accordance with subparagraph 3, it shall impose one or both of the following:

(a) require the CIF to increase own funds to specified levels within specified periods;

(b) exercise its powers under section 70(4) and 73(i) of the Law to impose more stringent restrictions on distributions than those required by paragraph 57 of this Directive.

Part III

DISCLOSURE BY THE COMMISSION

General disclosure requirements

59. (1) The Commission shall publish the following information:

(a) the texts of laws, regulations, administrative rules and general guidance adopted in the Republic in the field of prudential regulation;

(b) the manner of exercise of the options and discretions available in Union law;

(c) the general criteria and methodologies they use in the review and evaluation referred to in section 70 of the Law;

(d) without prejudice to the provisions set out in sections 129, 132, 132A, 132B and 136 of the Law, aggregate statistical data on key aspects of the implementation of the prudential framework in each Member State, including the number and nature of supervisory measures taken in accordance with section 70(4) and of administrative penalties imposed in accordance with section 141(10) of the Law.

(2) The information published in accordance with subparagraph (1) shall be sufficient to enable a meaningful comparison of the approaches adopted by the competent authorities of the different Member States. The disclosures shall be published following a common format and updated regularly. The disclosures shall be accessible at a single electronic location.

Specific disclosure requirements

60. (1) For the purpose of Part Five of Regulation (EU) No 575/2013, the Commission shall publish the following information:

(a) the general criteria and methodologies adopted to review compliance with Articles 405 to 409 of Regulation (EU) No 575/2013;

(b) without prejudice to the provisions laid down in sections 129, 132, 132A, 132B and 136 of the Law, a summary description of the outcome of the supervisory review and description of the measures imposed in cases of non-compliance with Articles 405 to 409 of Regulation (EU) No 575/2013, identified on an annual basis.

(2) The Commission exercising the discretion laid down in Article 7(3) of Regulation (EU) No 575/2013 shall publish the following information:

(a) the criteria it applies to determine that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities;

(b) the number of parent institutions which benefit from the exercise of the discretion laid down in Article 7(3) of Regulation (EU) No 575/2013 and the number of those which incorporate subsidiaries in a third country;

(c) on an aggregate basis for the Republic:

(i) the total amount of own funds on the consolidated basis of the parent institution in a Member State, which benefits from the exercise of the discretion laid down in Article 7(3) of Regulation (EU) No 575/2013, which are held in subsidiaries in a third country;

(ii) the percentage of total own funds on the consolidated basis of parent institutions in the Republic which benefits from the exercise of the discretion laid down in Article 7(3) of that Regulation, represented by own funds which are held in subsidiaries in a third country;

(iii) the percentage of total own funds required under Article 92 of that Regulation on the consolidated basis of parent institutions in the Republic, which benefits from the exercise of the discretion laid down in Article 7(3) of that Regulation, represented by own funds which are held in subsidiaries in a third country.

(3) The Commission shall publish all the following:

(a) the criteria it applies to determine that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities;

(b) the number of parent institutions which benefit from the exercise of the discretion laid down in Article 9(1) of Regulation (EU) No 575/2013 and the number of such parent institutions which incorporate subsidiaries in a third country;

(c) on an aggregate basis for the Republic:

(i) the total amount of own funds of parent institutions which benefit from the exercise of the discretion laid down in Article 9(1) of Regulation (EU) No 575/2013 which are held in subsidiaries in a third country;

(ii) the percentage of total own funds of parent institutions which benefit from the exercise of the discretion laid down in Article 9(1) of Regulation (EU) No 575/2013 represented by own funds which are held in subsidiaries in a third country;

(iii) the percentage of total own funds required under Article 92 of Regulation (EU) No 575/2013 of parent institutions which benefit from the exercise of the discretion laid down in Article 9(1) of that Regulation represented by own funds which are held in subsidiaries in a third country.

Part IV

LIMITATIONS ON EXPOSURES TO DIRECTORS AND SHAREHOLDERS

Limitations on exposures to directors and shareholders

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(1) A CIF is not allowed to:

a) grant any director any exposure unless the transaction was approved by a resolution of its Board of Directors carried by a majority of two-thirds of its directors that participated in the meeting and the director concerned was not present during the discussion of this subject by the Board and did not vote on the resolution; the exposures granted in such cases are granted on the same commercial terms as would apply to a client for similar exposures in the ordinary course of the CIF business;

b) subject to the provisions of points (a) and (c) to (e), permit the total value of exposures in respect of all its directors together to exceed at any time ten per cent (10%) of its eligible capital;

c) subject to the provisions of points (a), (b), (d) and (e), permit the total value of any unsecured exposures, which are granted to all its directors together to exceed at any time one per cent (1%) of its eligible capital;

d) subject to the provisions of points (a), (b) and (e), permit the total value of exposures to any director to exceed at any time the amount of €500.000;

e) subject to the provisions of points (a) to (d), permit the granting of funding at any time to any executive directors that does not comply with the terms and conditions or exceed the limits that apply to all staff of the CIF;

f) subject to the provisions of points (a) to (e), grant to any shareholder, that is not an institution, holding directly or indirectly more than ten percent (10%) of the share capital of the CIF, a large exposure;

g) subject to the provisions of points (a) to (f), grant to all shareholders of a CIF, that are not an institution, holding directly or indirectly more than ten percent (10%) of the share capital of CIF's exposures that in total exceed twenty percent (20%) of the CIF's eligible capital;

h) subject to the provisions of points (a) to (g), grant to all shareholders of the CIF, that are not an institution, holding directly or indirectly more than ten percent (10%) of the share capital of the CIF, unsecured exposures that in total exceed two percent (2%) of the CIF's eligible capital;

(2) Every CIF shall, at all times, comply with all the limits laid down in subparagraph 1. If, in an exceptional case, exposures exceed any limit, the CIF shall report without delay to the Commission, the excess amount, the reasons that led to the excess and the actions for compliance.

(3) For the purposes of subparagraph (1) and (2), the reference to directors and

shareholders includes their connected persons as well, as these are defined in article 4(39) of the Regulation EU no. 575/2013.

(4) The exposures of subparagraph (1) are disclosed to the Commission through the duly completed Forms 144-14-08.2 and 144-14-08.3 every quarter (namely 31/3, 30/6, 30/9, 31/12) and submitted to the Commission, the latest by 12/5, 11/8, 11/11 and 11/2, respectively.

Part V

TRANSITIONAL AND FINAL PROVISIONS

CHAPTER 1

Transitional provisions on the supervision of CIFs exercising the freedom of establishment and the freedom to provide services

Responsibility **62.** (1) The prudential supervision of a CIF shall be the responsibility of the Commission, without prejudice to those provisions of this Directive which give responsibility to the competent authorities of the host Member State.

(2) Subparagraph (1) shall not prevent supervision on a consolidated basis pursuant to this Directive.

(3) The Commission shall, in the exercise of their general duties, duly consider the potential impact of their decisions on the stability of the financial system in all other Member States concerned and, in particular, in emergency situations, based on the information available at the relevant time.

Collaboration concerning supervision **63.** The Commission shall collaborate closely with the interested competent authorities of other Member States in order to supervise the activities of CIFs operating, in particular through a branch, in other Member States. The Commission shall supply the other authorities, and vise versa, with all information concerning the management and ownership of such CIFs that is likely to facilitate their supervision and the examination of the conditions for their authorisation, and all information likely to facilitate the monitoring of such institutions, in particular with regard to liquidity, solvency, deposit guarantees, the limiting of large exposures, administrative and accounting procedures and internal control mechanisms.

Significant branches **64.** (1) The competent authorities of a host Member State may make a request to the consolidating supervisor where paragraph 37(1) applies or to the competent authorities of the home Member State, for a branch of an institution other than an investment firm subject to Article 95 of Regulation (EU) No 575/2013 to be considered as significant.

(2) That request shall provide reasons for considering the branch to be significant with particular regard to the following:

(a) the likely impact of a suspension or closure of the operations of the institution on systemic liquidity and the payment, clearing and settlement systems in the host Member State;

(b) the size and the importance of the branch in terms of number of clients within the context of the banking or financial system of the host Member State.

The competent authorities of the home and host Member States, and the consolidating supervisor where paragraph 37(1) applies, shall do everything within their power to reach a joint decision on the designation of a branch as being significant.

If no joint decision is reached within two months of receipt of a request under the first subparagraph, the competent authorities of the host Member State shall take their own decision within a further period of two months on whether the branch is significant. In taking their decision, the competent authorities of the host Member State shall take into account any views and reservations of the consolidating supervisor or the competent authorities of the home Member State.

The decisions referred to in the second and third subparagraphs shall be set out in a document containing full reasons, shall be transmitted to the competent authorities concerned, and shall be recognised as determinative and applied by the competent authorities of the Member States concerned.

The designation of a branch as being significant shall not affect the rights and responsibilities of the Commission under this Directive.

(3) The competent authorities of the home Member State shall communicate to the competent authorities of a host Member State where a significant branch is established the information referred to in paragraph 41(1)(c) and (d) and carry out the tasks referred to in paragraph 37(1)(c) in cooperation with the competent authorities of the host Member State.

(4) If a competent authority of a home Member State becomes aware of an emergency situation as referred to in paragraph 39(1), it shall alert as soon as practicable the authorities referred to in Section 132(4) and 132(A) of the Law and sections 28, 29(2) and 29(3) of Law 73(I) of 2009 and 2012 as amended from time to time.

(5) Where paragraph 40 does not apply, the competent authorities supervising a institution with significant branches in other Member States shall establish and chair a college of supervisors to facilitate the reaching of a joint decision on the designation of a branch as being significant under subparagraph 2 and the exchange of information under section 132B(1) of the Law. The establishment and functioning of the college shall be based on written arrangements determined, after consulting the competent authorities concerned, by the competent authority of the home Member State. The competent authority of the home Member State shall decide which competent authorities participate in a meeting or in an activity of the college.

(6) The decision of the competent authority of the home Member State shall take account of the relevance of the supervisory activity to be planned or coordinated for those

authorities, in particular the potential impact on the stability of the financial system in the Member States concerned referred to in paragraph 68(3) and the obligations referred to in subparagraph 2 of this paragraph.

(7) The competent authority of the home Member State shall keep all members of the college fully informed, in advance, of the organisation of such meetings, the main issues to be discussed and the activities to be considered. The competent authority of the home Member State shall also keep all the members of the college fully informed, in a timely manner, of the actions taken in those meetings or the measures carried out.

On-the-spot checks

65. (1) Where a CIF carries out its activities through a branch in another Member State, the Commission may, after having informed the competent authorities of the host Member State, carry out themselves or through an intermediary on-the-spot checks of the information referred to in section 131(A) of the Law.

(2) The Commission may also, for the purposes of such on-the-spot checking of branches, have recourse to one of the other procedures set out in paragraph 42.

(3) Subparagraphs (1) and (2) shall not affect the right of the competent authorities of the host Member State to carry out, in the discharge of their responsibilities under this Directive, on- the-spot checks of branches established within their territory.

CHAPTER 3

Transitional provisions for capital buffers

Transitional provisions for capital buffers

66. (1) This paragraph amends the requirements of paragraphs 52 and 53 for a transitional period between 1 January 2016 and 31 December 2018.

(2) For the period from 1 January 2016 until 31 December 2016 the capital conservation buffer shall consist of Common Equity Tier 1 capital equal to 0,625 % of the total of the risk-weighted exposure amounts of the institution calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013.

(3) For the period from 1 January 2017 until 31 December 2017 the capital conservation buffer shall consist of Common Equity Tier 1 capital equal to 1,25 % of the total of the risk-weighted exposure amounts of the institution calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013.

(4) For the period from 1 January 2018 until 31 December 2018 the capital conservation buffer shall consist of Common Equity Tier 1 capital equal to 1,875 % of the total of the risk-weighted exposure amounts of the institution calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013;

(5) The requirement for a capital conservation plan and the restrictions on distributions referred to in paragraphs 57 and 58 shall apply during the transitional period between 1 January 2016 and 31 December 2018 where CIFs fail to meet the combined buffer requirement as prescribed by the macroprudential authority.

CHAPTER 3

Final provisions

Entry into force

67. (1) Subject to the provisions of points (2) – (4), this Directive shall enter into force as of its publication in the Official Gazette of the Republic.

(2) Part II, Chapter 3 shall apply from 1 January 2016.

(3) CIFs shall apply the principles laid down in paragraph 21(1)(g) to remuneration awarded for services provided or performance from the year 2014 onwards, whether due on the basis of contracts concluded before or after 1 January 2014.

(4) Paragraph 55 shall apply from 1 January 2014.

ANNEX I

GUIDELINES FOR THE COMPUTATION OF THE REALISABLE VALUE OF VARIOUS SECURITY ITEMS FOR THE PURPOSES OF PARAGRAPH 61 (ACCEPTABLE TANGIBLE SECURITY)

Type of security held		Assessment of realisable value
1.	Mortgaged properties	The lower of the forced sale value (F.S.V.), based on a recent professional valuation and the amount of the mortgage plus accrued interest. If there is no professional valuation or another sound basis for determining a specific amount, no value should be taken into account. Where there are prior mortgages their value including, where applicable, accrued interest since the date of their registration, should be deducted from the F.S.V. and only the equity should be taken into account. When prior mortgages were registered after 2000, no mortgage value shall be assigned on subsequent mortgages.
2.	Blocked funds	100%
3.	Shares pledged:	
	(i) Shares of public companies listed on recognised Stock Exchanges:	
	- Where the % of shares pledged, per group of connected persons, does not exceed 3% of the total shares of the company	Up to 75% of market value on the reporting date.
	- Where the % of the shares pledged, per group of connected persons, exceeds 3% of the total shares of the company	Up to 50% of market value on the reporting date.
	(ii) Shares of companies not listed on recognised Stock	Up to 50% of percentage held as security, times the company's net worth on the basis of recent audited financial statements. Recent audited financial statements are the financial statements

	Exchanges	with reference date within 18 months from the date of calculation.
	(iii) Shares of companies under consolidated supervision by the Cyprus Securities and Exchange Commission, not listed in recognised Stock Exchanges	Up to 75% of percentage held as security, times the company's net worth on the basis of recent audited financial statements. Recent audited financial statements are the financial statements with reference date within 18 months from the date of calculation.
4.	Assignment of life insurance policy	Surrender value certified by the insurance company, otherwise no value should be attached.
5.	Goods pledged (in bonded warehouses in the credit institution's name)	Up to 50% of the invoice value of the goods. If goods are in bonded warehouse for more than two years, no value should be taken, unless the goods have been recently inspected and valued by a professional valuer. For new cars in bonded warehouse for less than six months, a realisable value of 75% of the cost of the cars may be assigned.
6.	Documents under Letters of Credit:	
	(i) Documents under Letters of Credit - sight	Up to 50% of authorised limit or outstanding balance, whichever is greater. Where the credit institution's practice is to partially or wholly release the goods under Trust Receipt (T/R) no security should be obtained, unless sub-limits have been set and complied from the outset, in which case security of up to 50% is obtained on the amount not released under the T/R limit.
	(ii) Documents under Letters of Credit	No value should be taken where goods are released upon acceptance. If goods are pledged and placed in bond in the credit institution's name, then (5) above applies.
7.	Fixed charges - Plant and machinery, vehicles	Depending on their nature and date of purchase, up to 50% of their net book value, after deducting prior fixed charges to third parties.
8.	Floating charges:	The realisable value of assets included under a floating charge is calculated using the following percentages on book values of recent audited financial statements after deducting all prior charges. Recent audited financial statements are the financial statements with reference date within 18 months from the date

		of calculation.
	(i) Land and buildings	Up to 50% of net book value.
	(ii) Plant and machinery	Up to 50% of net book value depending on type and age.
	(iii) Stocks:	Stocks in bonded warehouses at the date of calculation of the floating charge and stocks under Letters of Credit, are taken into account in the calculation of security under points (5) and (6)(i) above so they must not be included in the stocks of goods.
	- Finished goods	Up to 50% of net book value.
	- Work in progress	Up to 30% of net book value
	- Raw materials	Up to 40% of net book value.
	(iv) Debtors	Up to 70% of net book value. Debit balances from connected legal entities and natural persons are excluded. Limits/balances of debtors under factoring agreements are excluded.
	(v) Bills receivable	Up to 70% of net book value.
	(vi) Securities:	
	- Listed on recognised Stock Exchanges	Up to 50% of market value.
	- Not listed on recognised Stock Exchanges	Up to 25% of the percentage of the shares under the floating charge times the company's net worth on the basis of recent audited financial statements. Recent audited financial statements are the financial statements with reference date within 18 months from the date of calculation.
9.	Personal guarantees	No value should be taken unless supported by tangible security.
10.	Corporate cross guarantees	No value should be taken unless supported by tangible security.

11.	Government guarantees:	
	(i) Countries in the EEA, Australia, Canada, Switzerland, Japan, Russia and USA	100% of the amount guaranteed.
	(ii) Other countries	Percentage to be agreed with the Cyprus Securities and Exchange Commission.
12.	Foreign bills negotiated:	
	(i) Under documentary L/Cs	Up to 100%.
	(ii) Under documentary collections:	
	- Covered by government Export Credit Insurance Schemes (E.C.I.S) of countries in the EEA, Australia, Canada, Switzerland, Japan, Russia and USA	Amount covered by E.C.I.S.
	- Covered by government Export Credit Insurance Schemes (E.C.I.S) of other countries	According to the credit assessment of the guarantor country by eligible ECAIs, in accordance with Annex I of Part C of the DI144-2007-05, as follows: Credit quality step 1 100% Credit quality step 2 80% Credit quality step 3 50% No collateral value is assigned, if the credit assessment is below CQS 3.
	- Endorsed by a foreign trustworthy credit institution: • Credit institutions established in the EEA, Australia,	Up to 100%

	Canada, Switzerland, Japan, Russia and USA • Credit institutions established in other countries	According to the credit assessment of the guarantor credit institution by an eligible ECAI, in accordance with Annex I of Part C of the DI144-2007-05, as follows: Credit rating quality step 1 80% Credit rating quality step 2 & 3 50% No collateral value is assigned, if the credit assessment is below CQS 3.
13.	Bank guarantees:	
	(i) For guarantees issued by credit institutions licensed in the EEA, Australia, Canada, Switzerland, Japan, Russia and USA	Up to 100%.
	(ii) For guarantees, issued by credit institutions established in other countries	According to the credit assessment of the guarantor credit institution by an eligible ECAI, in accordance with Annex I of Part C of the DI144-2007-05, as follows: Credit rating quality step 1 80% Credit rating quality step 2 & 3 50% No collateral value is assigned, if the credit assessment is below CQS 3.
14.	Local bills discounted	Up to 70% of the approved limit or the outstanding balance, whichever is the higher, provided that such bills arise from bona fide commercial transactions. No value is assigned to overdue and/or protested bills.
15.	Pledged Government bonds:	
	(i) Of countries of the EEA, Australia, Canada, Switzerland, Japan, Russia and USA	Up to 100% of market value

	(ii) Of other countries	Percentage to be agreed with the Cyprus Securities and Exchange Commission
16.	Pledge of bonds of public companies:	
	(i) Credit institutions: - listed in recognised stock exchange - not listed	 Up to 90% of market value Up to 90% of net present value
	(ii) Other public companies: - listed in recognised stock exchange - not listed	 Up to 70% of market value Up to 50% of nominal value as long as the issuer company is creditworthy, i.e. it has positive net worth.