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LAW TO PROVIDE FOR THE CAPITAL ADEQUACY OF INVESTMENT FIRMS

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LAW TO PROVIDE FOR THE CAPITAL ADEQUACY OF INVESTMENT FIRMS

Preamble. For purposes of -

(a) Further harmonization with Articles 1, 2(1), (2), (3), (4), (5), 3(1), 1), 2), 3), 5), 7), 9), 10), 11), 12), 14), 15), 16), 18), 19), 20), 21), 22), 23), 24), 25), 26), 27), 28), 29), 30), 31), 32), 34), 35), 36), 37), 38), 39), 40), 41), 43), 44), 45), 46), 47), 48), 49), 50), 51), 52), 53), 54), 56), 57), 58), 59), 4(1)-(7), 5, 7, 18(e)-(f), 28, 29, 30, 31, 32(4), 49, 50(1)-(5), 51(1)-(3), 52, 53(1)-(3), 54, 55, 56, 57(1)-(2) and (5), 58, 59, 60, 61, 62, 63, 64(2), 65(1)-(3), 67(1)(a)(d)-(p) and (2), 68(1)-(3), 69(1)-(3), 70, 71, 72, 73, 75(3), 76, 77(1)-(3), 78(1)-(5), 79, 80, 81, 82, 83, 84, 85(2), 86, 87, 89(1)(4)(5), 90, 92, 94(1), 95, 96, 97(1)(a)(c)(2)(3)-(5), 98(1)(a-i)(2)-(7), 99(1), (2), (a), (c), (3), (4), 100(1), 101(1)-(5), 102, 105(a)-(c), 106, 107(1), 108(1)-(2) and (4), 109(1), 110, 112, 114, 115, 116(1)-(3) and (6)-(9), 117, 118, 119, 120(1) and (3), 121, 122, 123, 124, 125, 126, 127, 141(7)-(10), 142, 143 and 144 of the act of the European Union titled "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" as last corrected and amended by Directive 2019/878 of the European Parliament and of the Council of 20 May 2019;

Official Journal of the EU: L176, 27.06.2013, p.338; L150, 07.06.2019, p.253.

(b) application of the act of the European Union titled "Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on the prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012" as last corrected and amended by Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019;

Official Journal of the EU: L176, 27.06.2013, p.1; L314, 05.12.2019, p.1.

(c) harmonization with Articles 1.1)(1-3), 1.2a), 1.2b), 1.3), 1.8), 1.9), 1.12), 1.13), 1.14), 1.15), 1.16)a), 1.16).b), 1.18), 1.19), 1.20), 1.21), 1.22), 1.26).a), 1.26).b).i)., 1.26).b).ii), 126).c)., 1.27).a).i)., 1.27).a).ii), 1.27).b), 1.27).c)., 1.28).a)., 1.28).b), 1.28).c), 1.28).d),1.29).a)., 1.30), 1.31), 1.32).a), 1.32).b), 1.33), 1.34), 1.35), 1.36).a) and b), 1.36).b), 1.37), 1.38), 1.39), 1.40).a), 1.40.b), 1.41, 1.42), 1.43), 1.44), 1.51), 1.52), 1.53), 1.54) and 1.56) of the act of the European Union titled "Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures"; and

Official Journal of the EU: L150, 07.06.2019, p.253.

Official Journal of the EU: L68, 26.02.2021, p.14.

(d) harmonization with Article 2 of the act of the European Union titled "Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis";

For all the above reasons, the House of Representatives enacts as follows:

PART I
PRELIMINARY PROVISIONS

Short title.

1. This Law shall be cited as the Capital Adequacy of Investment Firms Law of 2021.

Interpretation.

2.-(1) In this Law, unless the context otherwise requires -

"authorization" means the authorization as defined in point (42) of Article 4(1) of Regulation (EU) no. 575/2013;

"sponsor" means sponsor as defined in point (14) of Article 4(1) of Regulation (EU) no. 575/2013;

"senior management" means the natural persons who exercise executive functions within a CIF and who are responsible, and accountable to the board of directors for the day-to-day management of the CIF;

"competent authority" means competent authority as defined in point (40) of Article 4(1) of Regulation (EU) no. 575/2013;

"consolidating supervisor" means consolidating supervisor as defined in point (41) of Article 4(1) of Regulation (EU) no. 575/2013;

22(I) of 2016
96(I) of 2021.
Official Journal of the EU: L173, 12.06.2014, p.190; L328, 18.12.2019, p.29.

"resolution authority" means, as the case may be, the resolution authority as defined in Section 2 of the Resolution of Credit Institutions and Investment Firms Law or the resolution authority as defined in point (18) of Article 2(1) of Directive 2014/59/EU;

38(I) of 2016
88(I) of 2017
155(I) of 2018
38(I) of 2019
136(I) of 2019

"insurance undertaking" means insurance undertaking as defined in Section 2 of the Insurance and Reinsurance Services and Other Related Issues Law";

19(I) of 2020
123(I) of 2020
30(I) of 2021
66(I) of 2021.

"board of directors" means the management body of a CIF, which is empowered to set the strategy, objectives and overall direction of the CIF and which oversees and monitors management decision-making and includes the persons who effectively direct the business of the CIF;

"board of directors in supervisory function" means a CIF's management body acting in its role of overseeing and monitoring management decision-making;

Official Journal of the EU: L331, 15.12.2010, p.48; L334, 27.12.2019, p.1.

"EIOPA" means the European Insurance and Occupational Pensions Authority established by the act of the European Union titled "Regulation (EU) no. 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending decision no. 716/2009/EC and repealing Commission Decision 2009/79/EC" as amended last by Regulation (EU) no. 2019/2175 of the European Parliament and of the Council of 18 December 2019;

Official Journal of the EU: L331, 15.12.2010, p.84.

"ESMA" means the European Securities and Markets Authority established by the act of the European Union itled "Regulation (EU) no. 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision no. 716/2009/EC and repealing Commission Decision 2009/77/EC" as last amended by Regulation (EU) no. 2019/2175 of the European Parliament and of the Council of 18 December 2019;

Official Journal of the EU: L331, 15.12.2010, p.12.

"EBA" means the European Banking Authority established by the act of the European Union titled "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 last amended by Regulation (EU) no. 2019/2175 of the European Parliament and of the Council of 18 December 2019;

53(I) of 2017
171(I) of 2017
7(I) of 2018
69(I) of 2019
12(I) of 2020.
87(I) of 2017
44(I) of 2020
78(I) of 2021.

"auditor" means a person authorized pursuant to the Auditors Law for the obligatory audits of annual and consolidated accounts and who performs in a CIF the duties described in section 78 of the Investment Services and Activities and Regulated Markets Law;

"audit" means audit as defined in point (37) of Article 4(1) of Regulation (EU) no. 575/2013;

"consolidated basis" means consolidated basis as defined in point (48) of Article 4(1) of Regulation (EU) no. 575/2013;

"consolidated situation" means consolidated situation as defined in point (47) of Article 4(1) of Regulation (EU) no. 575/2013;

"external credit assessment institution" means external credit assessment institution as defined in point (98) of Article 4(1) of Regulation (EU) no. 575/2013;

"Union" or "EU" means the European Union;

73(I) of 2009
5(I) of 2012
65(I) of 2014
135(I) of 2015
109(I) of 2016
137(I) of 2018
56(I) of 2019
152(I) of 2020.

"Commission" means the Cyprus Securities and Exchange Commission governed by the Cyprus Securities and Exchange Commission Law;

"IF" means an investment firm as defined in point (2) of Article 4(1) of Regulation (EU) no. 575/2013;

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

Official Journal of the EU: L331, 15.12.2010, p.1; L334, 27.12.2019, p.146.

"ESRB" means the European Systemic Risk Board established by the act of the European Union titled "Regulation (EU) no. 1092/2010 of the European Parliament and of the Council of 24 November on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board", as amended last by Regulation (EU) no. 2019/2176 of the European Parliament and of the Council of 18 December 2019;

"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;

"asset management company" means asset management company as defined in point (19) of Article 4(1) of Regulation (EU) no. 575/2013;

Official Journal of the EU: C326, 26.10.2012, p.47; C202, 07.06.2016, p.230; C313, 21.09.2017

"ESCB" means the European System of Central Banks referred to in the consolidated version of the Treaty on the European Union and of the Treaty on the Functioning of the European Union and of Protocol (number 4) on the Statute of the European System of Central Banks and of the European Central Bank;

p.5.

“securitization position” means securitization position as defined in point (62) of Article 4(1) of Regulation (EU) No 575/2013;

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

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

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

“Regulation (EU) No 1092/2010” means the act of the European Union titled “Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board”, as amended last by Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019;

“Regulation (EU) No 1093/2010” means the act of the European Union titled “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 last by Regulation (EU) 2018/1717 of the European Parliament and of the Council of 14 November 2018;

“Regulation (EU) No 1094/2010” means the act of the European Union titled “Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC” as amended last by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019;

“Regulation (EU) No 1095/2010” means the act of the European Union titled “Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC”, as amended last by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019;

“Regulation (EU) No 575/2013 means the act of the European Union titled “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” as corrected and amended last by Regulation (EU) 2019/2033 of the European Parliament

and of the Council of 27 November 2019;

Official Journal of the EU: L173, 12.06.2014 p.84; L314, 05.12.2019, p.1.

"Regulation (EU) No 600/2014" means the act of the European Union titled "Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012" as corrected and amended last by Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019;

Official Journal of the EU: L119, 4.5.2016 p.1; L127, 23.5.2018, p.2.

"Regulation (EU) No 2016/679" means the act of the European Union titled "Regulation (EU) No 2016/979 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)", as corrected;

Official Journal of the EU: L347, 28.12.2017 p.35.

"Regulation (EU) No 2017/2402" means the act of the European Union titled "Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012;

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

138(I) of 2002
166(I) of 2003
34(I) of 2007
86(I) of 2013
103(I) of 2013
66(I) of 2014
139(I) of 2014
144(I) of 2014
107(I) of 2016
170(I) of 2017.

"Central Bank" means the Central Bank as defined in section 2 of the Central Bank of Cyprus Law;

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

"CIF" means investment firm as defined in point (2) of Article 4(1) of Regulation (EU) No 575/2013, authorized in the Republic under the Investment Services and Activities and Regulated Markets Law;

"model risk" means the potential loss a CIF 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;

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

"Member State" means a Member State of the European Union;

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

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

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

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

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

"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; the term "parent mixed financial holding company in the Republic" has a corresponding meaning;

"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;

"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; the term "parent financial holding company in the Republic" has a corresponding meaning;

"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;

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

"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; the term "parent institution in the Republic" has a corresponding meaning;

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

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

188(I) of 2007.

"MOKAS" means the Unit for Combating Money Laundering Offences

58(I) of 2010
80(I) of 2012
192(I) of 2012
101(I) of 2013
184(I) of 2014
18(I) of 2016
13(I) of 2018
158(I) of 2018
81(I) of 2019
13(I) of 2021
22(I) of 2021.

established under section 54 of the Prevention and Suppression of Money Laundering and Terrorist Financing Law;

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

Official Journal of the EU: L035, 11.02.2003 p.1.

"Directive 2002/87/EC" means the act of the European Union titled "Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council" as amended last by Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013;

Official Journal of the EU: L335, 17.12.2009 p.1; L156, 19.06.2018, p.43.

"Directive 2009/138/EC" means the act of the European Union titled "Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)" as corrected and amended last by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018;

Official Journal of the EU: L176, 27.06.2013, p.1; L314, 05.12.2019, p.1.

"Directive 2013/36/EU" means the act of the European Union titled "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" as corrected and amended last by Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019;

Official Journal of the EU: L173, 12.06.2014, p.190; L328, 18.12.2019, p.29.

"Directive 2014/59/EU" means the act of the European Union titled "Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 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" as corrected and amended last by Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019;

Official Journal

"Directive 2014/65/EU" means the act of the European Union titled "Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on

of the EU: L173, 12.06.2014 p.349; L320, 11.12.2019, p.1.

markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (redrafting)" as corrected and amended last by Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019;

Official Journal of the EU: L141, 05.06.2015, p.73; L334, 27.12.2019, p.155.

"Directive (EU) 2015/849 means the act of the European Union titled "Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC", as amended last by Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019;

Official Journal of the EU: L150, 07.06.2019 p.253; L212, 03.07.2020, p.20.

"Directive (EU) 2019/878" means the act of the European Union titled "Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures" as amended;

Official Gazette, Third Annex (I): 25.09.2015.

"Directive DI144-2007-16 of 2015" means the Directive of the Cyprus Securities and Exchange Commission in relation to the Supplementary Supervision of Investment Firms, UCITS Management Companies or Alternative Investment Fund Managers in a Financial Conglomerate";

Official Gazette, Third Annex (I): 27.11.2015.

"Directive DI144-2007-16(A) of 2015" means the Directive of the Cyprus Securities and Exchange Commission in relation to the Supplementary Supervision of Investment Firms, UCITS Management Companies or Alternative Investment Fund Managers in a Financial Conglomerate";

"group" means group as defined in point (138) of Article 4(1) of Regulation (EU) No 575/2013;

"third country group" means a group of which the parent undertaking is established in a third country;

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

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

"gender neutral" with regard to remuneration policy or practice means remuneration policy or practice based on equal pay between women and men employed for same work or for work of equivalent value.

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

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

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

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

“Treaty” means the consolidated version of the Treaty for the European Union and the Treaty on the Functioning of the European Union;

“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;

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

“securitization” means securitization as defined in point (61) of Article 4(1) of Regulation (EU) No 575/2013;

“local firm” means local firm as defined in point (4) of Article 4(1) of Regulation (EU) No 575/2013;

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

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

“trading book” means trading book as defined in point (86) of Article 4(1) of Regulation (EU) No 575/2013;

“financial holding company” means financial holding company as defined in point (20) of Article 4(1) of Regulation (EU) 575/2013;

“financial institution” means a financial institution as defined in point (26) of Article 4(1) of Regulation (EU) 575/2013;

“financial instrument” means financial instrument as defined in point (50) of Article 4(1) of Regulation (EU) 575/2013.

2(a) In this Law and in the directives issued pursuant to this Law , any reference to a legislative act of the European Union, such as Directive, Regulation or Decision, means the said act as corrected, amended or replaced from time to time, unless in this Law or in the directives issued pursuant to this Law the context otherwise requires.

(b) In this Law and in the directives issued pursuant to this Law, any reference to a law or regulatory administrative act of the Republic, means the said law or regulatory administrative act as corrected, amended or replaced from time to time, unless in this Law or in the directives issued pursuant to this Law the context otherwise requires.

(3) Terms used in this Law and not otherwise construed shall have the meaning ascribed to them in Regulation (EU) No 575/2013.

(4) Where in this Law there is reference to an obligation to comply with the present Law and with the directives issued pursuant to this Law, it is deemed that the said obligation also includes the obligation to comply with Regulation (EU) No 575/2013.

(5) To ensure that the requirements or the supervisory powers defined in this Law and in the directives issued pursuant to this Law or in Regulation (EU) No 575/2013 apply on a consolidated or sub-consolidated basis pursuant to this Law and to the directives issued pursuant to this Law and to the said Regulation, the terms “institution”, “parent institution in a Member State”, “EU parent institution” and “parent undertaking” also include:

(a) financial holding company and mixed financial holding company approved pursuant to section 79 of this Law;

(b) designated institutions controlled by an EU parent financial holding company or EU parent mixed financial holding company, parent financial holding company in a Member State or parent mixed financial holding company in a Member State, provided the concerned parent company is not subject to approval pursuant to paragraphs (a) to (e) of subsection (5) and to subsection (6) of section 79; and

(c) financial holding companies, mixed financial holding companies or institutions defined pursuant to paragraph (d) of section 79(9).

Scope of application.

3.-(1) Subject to the provisions of the Investment Services and Activities and Regulated Markets Law, the present Law shall apply to investment firms, financial holding companies and mixed financial holding companies falling within the supervision of the Commission, subject to the provisions of sections 71 to 89.

(2) Subsection (5) of section 8 shall apply to local firms.

(3) This Law shall lay down rules concerning:

(a) access to the activity of CIFs;

(b) supervisory powers and tools for the prudential supervision of CIFs by the Commission;

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

(d) publication requirements for the Commission in the field of prudential regulation and supervision of CIFs.

(4) Section 9 shall apply to CIFs referred to in point (2)(c) of Article 4(1) of Regulation (EU) No 575/2013.

(5) Sections 71 to 89 shall apply to financial holding companies, mixed financial holding companies and mixed-activity holding companies which have their head offices in the Union.

(6) The provisions of this Law shall not apply to the cases or entities referred to in Article 2, paragraph 5 of Directive 2013/36/EU.

PART II
COMPETENT AUTHORITY

Competent authority and general powers of the Commission.

4.-(1) The Commission shall be designated as the competent authority of the Republic to carry out the functions and duties provided for in this Law, in the directives issued thereunder and in Regulation (EU) No 575/2013 to the extent that it pertains to entities falling within the supervision of the Commission as well as to the measures enacted in their application.

(2) The Commission shall monitor the activities of CIFs, and where applicable, of financial holding companies and mixed financial holding companies falling within their supervision, so as to assess compliance with the requirements of this Law and of the directives issued pursuant to this Law and of Regulation (EU) No 575/2013.

(3) The Commission shall obtain the information needed to assess the compliance of CIFs and, where applicable, of financial holding companies and mixed financial holding companies falling within its supervision, with the requirements referred to in subsection (2) and to investigate possible breaches of those requirements.

(4) The Commission shall have the expertise, resources, operational capacity, powers and independence necessary to carry out the functions relating to prudential supervision, investigations and penalties set out in this Law and in the directives issued pursuant to this Law and in Regulation (EU) No 575/2013.

(5)(a) The CIFs shall provide the Commission with all information necessary for the assessment of their compliance with the rules adopted in accordance with this Law and the directives issued pursuant to this Law and Regulation (EU) No 575/2013.

(b) Internal control mechanisms and administrative and accounting procedures of CIFs shall permit the checking of their compliance with this Law and the directives issued pursuant to this Law and Regulation (EU) No 57/2013 at all times.

(6) CIFs shall register all their transactions and document systems and processes, which are subject to this Law and the directives issued thereunder and Regulation (EU) No 575/2013 in such a manner that the Commission is able to check compliance with this Law and the directives issued pursuant to this Law and Regulation (EU) No 575/2013 at all times.

(7) The functions of supervision pursuant to this Law and to the directives issued pursuant to this Law and to Regulation (EU) No 575/2013 and any other functions of the Commission shall be separate and independent from the functions of the resolution authority.

(8) The resolution authority shall cooperate closely and consult the Commission with regard to the preparation of resolution plans and in all other cases where the said cooperation and consultation are required by this Law, by the directives issued pursuant to this Law, by the Resolution of Credit Institutions and Investment Firms Law or by Regulation (EU) No 575/2013.

Coordination within the Republic.

5. The Commission as the authority for the prudential supervision of CIFs and, where applicable, of financial institutions and financial holding companies and mixed financial holding companies under this Law and the directives issued pursuant to this Law and the Central Bank as the authority for the prudential supervision of credit institutions under the Business of Credit Institutions Law and the directives issued pursuant to this Law shall take the requisite measures to organize coordination between such authorities.

66(I) of 1997
74(I) of 1999
94(I) of 2000
119(I) of 2003
4(I) of 2004
151(I) of 2004
231(I) of 2004
235(I) of 2004
20(I) of 2005
80(I) of 2008
100(I) of 2009
123(I) of 2009
27(I) of 2011
104(I) of 2011
107(I) of 2012
14(I) of 2013
87(I) of 2013
102(I) of 2013

141(I) of 2013
5(I) of 2015
26(I) of 2015
35(I) of 2015
71(I) of 2015
93(I) of 2015
109(I) of 2015
152(I) of 2015
168(I) of 2015
21(I) of 2016
5(I) of 2017
38(I) of 2017
169(I) of 2017
28(I) of 2018
89(I) of 2018
153(I) of 2018
80(I) of 2019
149(I) of 2019
21(I) of 2020
73(I) of 2020
28(I) of 2021
94(I) of 2021
95(I) of 2021.

Union dimension of supervision.

6. In the exercise of its general duties, the Commission shall duly consider the potential impact of its decisions on the stability of the financial system in the other Member States concerned and, in particular, in emergency situations, based on the information available at the relevant time.

PART III
INITIAL CAPITAL OF CIFs

Initial capital of CIFs.

7.-(1) The initial capital of a CIF shall comprise only one or more of the items referred to in points (a) to (e) of Article 26(1) of Regulation (EU) No 575/2013.

(2) Further to what is provided for in section 8 of this Law, the CIF shall have an initial capital of seven hundred thirty thousand Euro (€730,000).

(3) The own funds of the CIF shall not fall below the levels specified in subsection (2).

Initial capital of particular types of CIFs and local firms.

8.-(1) The CIF that does not deal in any financial instruments for its own account or underwrite issues of financial instruments on a firm commitment basis, but which holds client money or securities and which offers one or more of the following services, shall have initial capital of one hundred twenty-five thousand Euro (€125,000):

(a) the reception and transmission of investors' orders for financial instruments;

(b) the execution of investors' orders for financial instruments;

(c) the management of individual portfolios of investments in financial instruments.

(2) The CIF which executes investors' orders for financial instruments to hold such instruments for its own account if the following conditions are met:

(a) such positions arise only as a result of the CIF's failure to match investors' orders precisely;

(b) the total market value of all such positions is subject to a ceiling of fifteen per cent (15 %) of the CIF's initial capital;

(c) the CIF meets the requirements set out in sections 51 to 53 of this Law and Part Four of Regulation (EU) No 575/2013;

(d) such positions are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.

(3) By derogation from the provisions of subsection (1), the CIF may have an initial capital of fifty thousand Euro (€50,000) where the CIF is not authorised to hold client money or securities, to deal for its own account, or to underwrite issues on a firm commitment basis.

(4) The holding of non-trading-book positions in financial instruments in order to invest own funds shall not be considered as dealing for its own account in relation to the services set out in subsection (1) or for the purposes of subsection (3).

(5) Local firms shall have initial capital of fifty thousand Euro (€50,000) insofar as they benefit from the freedom of establishment or to provide services specified in sections 35 and 36 of the Investment Services and Activities and Regulated Markets Law.

(6) The own funds of the CIF shall not fall below the levels specified in subsection s (1) and (3).

(7) The own funds of local firms shall not fall below the levels specified in subsection (5).

Coverage for CIFs not authorized to hold client money or securities.

9.-(1) Coverage for CIFs referred to in point (2)(c) of Article 4(1) of Regulation (EU) No 575/2013 shall take one of the following forms:

(a) initial capital of fifty thousand Euro (€50,000);

(b) professional indemnity insurance covering the whole territory of the European Union or some other comparable guarantee against liability arising from professional negligence, representing at least

one million Euro (€1,000,000) applying to each claim and in aggregate one million five hundred thousand Euro (€1,500,000) per annum for all claims;

(c) a combination of initial capital and professional indemnity insurance in a form resulting in a level of coverage equivalent to that referred to in paragraphs (a) or (b).

(2) If the CIF referred to in point (2)(c) of Article 4(1) of Regulation (EU) No 575/2013 is also registered under the provisions of the Insurance and Reinsurance Services and Other Related Issues Law, it shall comply with the requirements of the Second Chapter of Part VIII of the said Law and also have coverage in one of the following forms:

(a) initial capital of twenty-five thousand Euro (€25,000);

(b) professional indemnity insurance covering the whole territory of the European Union or some other comparable guarantee against liability arising from professional negligence, representing at least five hundred thousand Euro (€500,000) applying to each claim and in aggregate seven hundred fifty thousand Euro (€750,000) per annum for all claims;

(c) a combination of initial capital and professional indemnity insurance in a form resulting in a level of coverage equivalent to that referred to in paragraphs (a) or (b).

PART IV
PRUDENTIAL SUPERVISION
Principles of prudential supervision
Competence and duties of the Commission

Competences of the Commission as competent authority of the home Member State and as competent authority of the host Member State.

10.-(1) The prudential supervision of CIFs, financial holding companies and mixed financial holding companies shall be the responsibility of the Commission as the competent authority of the home Member State, without prejudice to the provisions of this Law and of any directives issued pursuant to this Law and of the legislative provisions of another Member State harmonizing Directive 2013/36/EU which give responsibility to the competent authority of another Member State as host Member State.

(2) Subsection (1) shall not prevent the Commission's competence for supervision on a consolidated basis.

(3) Measures taken by the Commission as competent authority of a host Member State shall not allow discriminatory or restrictive treatment on the basis that an investment firm, financial holding companies and mixed financial holding

companies are authorised in another Member State.

Collaboration regarding supervision.

11.-(1)(a) The Commission shall collaborate closely with the competent authorities of the Member States concerned for the supervision especially of the activities of CIFs operating, through a branch, in one or more Member States as well as for the supervision of the activities of investment firms of another Member State operating, through a branch, in the Republic.

(b) The Commission shall exchange with the competent authorities of Member States concerned all information concerning the management and ownership of the entities specified in paragraph (a) 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 the entities of paragraph (a), in particular with regard to liquidity, solvency, deposit guarantee, the limiting of large exposures, other factors that may influence the systemic risk posed by the entity of paragraph (a), administrative and accounting procedures and internal control mechanisms.

(2) The Commission, where it is the competent authority of the home Member State:

(a) shall provide the competent authorities of host Member States immediately with any information or findings pertaining to liquidity supervision in accordance with Part Six of Regulation (EU) No 575/2013 and sections 71 to 78 and 81 to 89, of the activities performed by the CIF through its branches, to the extent that such information and findings are relevant to the protection of investors in the host Member State;

(b) shall inform the competent authorities of all host Member States immediately where liquidity stress occurs or can reasonably be expected to occur. That information shall also include details about the planning and implementation of a recovery plan and about any prudential supervision measures taken in that context;

(c) shall communicate and explain upon request to the competent authorities of the host Member State how information and findings provided by the latter to the Commission have been taken into account;

(d) may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010 where it disagrees with the measures to be taken by the competent authorities of the host Member State.

(3)(a) The Commission may, where it acts as competent authority of a host Member State, request and obtain from the competent authority of the home Member State the information of subsection (2).

(b) Where, following communication of information and findings, the

Commission, as competent authority of the host Member State, maintains that no appropriate measures have been taken by the competent authorities of the home Member State, it may, after informing the competent authorities of the home Member State and EBA, take appropriate measures to prevent further breaches in order to protect the interests of investors and others to whom services are provided or to protect the stability of the financial system.

(4) The Commission may refer to EBA situations where a request for collaboration, in particular to exchange information, has been rejected or has not been acted upon within a reasonable time.

Significant branch.

12.-(1)(a) The Commission, where it is the competent authority of the host Member State, may make a request to the consolidating supervisor, where section 72(1) applies, or to the competent authorities of the home Member State for a branch of an investment firm, other than an investment firm subject to Article 95 of Regulation (EU) No 575/2013 to be considered as significant.

(b) The request provided for in paragraph (a) shall provide reasons for considering the branch to be significant with particular regard to the following:

(i) whether the market share of the branch in terms of deposits exceeds two per cent (2%) in the Republic;

(ii) 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 Republic; and

(iii) 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 Republic.

(c) The Commission, as competent authority of the host Member State, shall do everything within its power, in cooperation with the competent authorities of the home Member State, as well as with the consolidating supervisor, in the cases where section 72(1) applies, in order to reach, together with the other competent authorities involved, a joint decision on the designation of a branch as being significant.

(d) If no joint decision is reached within two (2) months of receipt of a request under the paragraph (a), the Commission, as the competent authority of the host Member State, shall take its own decision within a further period of two (2) months on whether the branch is significant. In taking its decision, the Commission shall take into account any views and reservations of the authority responsible for consolidating supervision or the competent authorities of the home Member State.

(e) The decisions referred to in paragraphs (c) and (d) shall be set out in a document containing full reasons and shall be transmitted by the Commission to the competent authorities concerned which shall recognise them as

determinative and apply them.

(f) The designation of a branch as being significant shall not affect the rights and responsibilities of the Commission under this Law and the directives issued pursuant to this Law and of the other competent authorities under the legislative provisions of another Member State harmonizing Directive 2013/36/EU.

(2)(a) The Commission, where it is the competent authority of a home Member State, shall:

(i). communicate to the competent authorities of the host Member States where a significant branch is established the information referred to in paragraphs (c) and (d) of section 77(2) and carry out the tasks referred to in paragraph (c) of section 72(1) in cooperation with the competent authorities of the host Member State;

(ii). if it becomes aware of an emergency situation as referred to in section 74(1), alert without delay the authorities referred to in paragraphs (c) and (d) of section 19(5) and section 21(1) to (4);

(iii). communicate to the competent authorities of the host Member States where significant branches are established the results of the risk assessments of CIFs where such branches belong, as referred to in section 55 of this Law and, where applicable, section 73(2) to (6). It shall also communicate the decisions under sections 61 and 65 in so far as those assessments and decisions are relevant to those branches;

(iv). consult the competent authorities of the host Member States where significant branches are established about operational steps required by section 47(18) to (20), where relevant for liquidity risks in the host Member State's currency.

It is provided that the Commission as the competent authority of the host Member State shall have the corresponding rights and duties of subsection 2(a).

(b) Where the Commission is the competent authority of the host Member State and the competent authority of the home Member State has not consulted the Commission, or where, following such consultation, the Commission maintains that operational steps required by sections 47(18) to (20) of this Law are not adequate, the Commission may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

(3)(a) (i). Where section 76 does not apply, the Commission supervising a CIF with significant branches in other Member States shall establish and chair a college of supervisors to facilitate the cooperation under subsection (2) of this section and under section 11.

(ii). The establishment and functioning of the college shall be based on written arrangements to be determined, after consulting the competent authorities concerned, by the Commission, as the home Member State.

(iii). The Commission, as the competent authority of the home Member State, shall decide which competent authorities participate in a meeting or in an activity of the college.

(b) For the decision provided for in paragraph (a), the Commission shall take account of the relevance of the supervisory activity to be planned or coordinated for competent authorities concerned, in particular the potential impact on the stability of the financial system in the Member States concerned and the obligations referred to in section 6 and subsection (2) of this section.

(c) The Commission, where it is 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 main activities to be considered. It 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 checking and inspection of branches established in another Member State.

13.-(1)(a) Where an investment firm, financial holding company or mixed financial holding company authorized in another Member State operates through a branch in the Republic, the competent authority of the home Member State may, after having informed the Commission as competent authority of the host Member State, carry out itself or through the intermediary of persons it appoints for that purpose on-the-spot checks of the information referred to in section 11 and inspections of such branches.

(b) The competent authority of the home Member State may also, for the purposes of the inspection of branches as stated in paragraph (a), have recourse to one of the other procedures set out in section 78.

(c) (i). The Commission, as the competent authority of the host Member State shall have the power to carry out, on a case-by-case basis, on-the-spot checks and inspections of the activities carried out by branches of investment firms on the territory of the Republic and require information from a branch about its activities and for supervisory purposes, where they consider it relevant for reasons of stability of the financial system in the Republic.

(ii). Before carrying out such checks and inspections provided for in sub-paragraph (i), the Commission shall consult the competent authorities of the home Member State.

(iii). After such checks and inspections pursuant to the provisions of sub-paragraph (a), the Commission shall communicate to the competent authorities of the home Member State the information obtained and the findings that are relevant for the risk assessment of the investment firm or the stability of the financial system in the Republic.

(2)(a) Where a CIF, a financial holding company or a mixed financial holding company authorized under section 79 in the Republic also exercises its activities in another Member State through a branch, the Commission may, after previously informing the competent authority of the host Member State, carry out itself or through the intermediary of persons it appoints for that purpose, on-the-spot checks of the information referred to in section 11 and inspections of such branches.

(b) The Commission, as competent authority of the home Member State, may also for the purposes of the inspection of branches established in another Member State, have recourse to one of the other procedures set out in section 78.

(c)The Commission, as competent authority of the home Member State, shall take duly into account the information findings transmitted by the competent authority of the host Member State in determining its supervisory examination programme referred to in section 57, also having regard to the stability of the financial system in the host Member State.

(d) The on-the-spot checks and inspections of branches shall be conducted in accordance with the law of the Member State where the check or inspection is carried out.

Exchange of information and professional secrecy

Professional secrecy.

14.-(1) The provisions of subsections (1) and (2) of section 77 of the Investment Services and Activities and Regulated Markets Law shall apply mutatis mutandis for the purposes of this Law.

(2) The Commission shall exchange information with other competent authorities or transmit information to the ESRB, EBA or ESMA pursuant to the provisions of this Law, other legislations or directives or regulations applied to CIFs as well as Regulation (EU) No 575/2013, Article 15 of Regulation (EU) No 1092/2010, Articles 31, 35 and 36 of Regulation (EU) No1093/2010 and Articles 31 and 36 of Regulation (EU) No1095/2010.

(3) The Commission may publish the outcome of stress tests carried out in accordance with section 58 or Article 32 of Regulation (EU) No 1093/2010 or from transmitting the outcome of stress tests to EBA for the purpose of the publication by EBA of the results of Union-wide stress tests.

Use of confidential

15.-(1) Where the Commission accepts confidential information, pursuant to

information.

section 14, it shall use it only in the course of its duties and only for any of the following purposes:

(a) to check that the CIF authorization requirements as set out in the Investment Services and Activities and Regulated Markets law and to facilitate monitoring, on a non-consolidated or consolidated basis, of the requirement for their operation and their general obligations as set out in this Law, especially with regard to capital adequacy requirements, and administrative and accounting procedures and internal control mechanisms;

(b) to impose penalties;

(c) in an appeal against a decision of the competent authority including court proceedings pursuant to section 98;

(d) in court proceedings initiated pursuant to special provisions provided for in European Union law in the field of credit institutions.

Cooperation agreements.

16.-(1) The Commission may conclude cooperation agreements, providing for exchanges of information, with the supervisory authorities of third countries in accordance with section 17 and section 18(1) only if the information disclosed is subject to a guarantee that professional secrecy requirements at least equivalent to those referred to in the provisions of section 14 are complied with.

(2) The exchange of information referred to in subsection (1) shall be for the purpose of performing the supervisory tasks of those supervisory authorities or bodies.

(3) Where the information originates in another Member State, it shall only be disclosed with the express agreement of the authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Exchange of information between authorities.

17.-(1) Notwithstanding the provisions of sections 14 and 15, the Commission may exchange information with other authorities of the Republic, with authorities of other Member States and the following, in the discharge of its supervisory functions:

(a) authorities entrusted with the public duty of supervising other financial sector entities and the authorities responsible for the supervision of financial markets;

(b) authorities or bodies charged with responsibility for maintaining the stability of the financial system in Member States through the use of macroprudential rules;

(c) reorganisation bodies or authorities aiming at protecting the stability of the financial system;

(d) contractual or institutional protection schemes as referred to in Article 113(7) of Regulation (EU) No 575/2013;

(e) bodies involved in the liquidation and bankruptcy of institutions and in other similar procedures;

(f) persons responsible for carrying out statutory audits of the accounts of institutions, insurance undertakings and financial institutions.

(g) authorities competent for the supervision of the obliged entities referred to in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 regarding compliance with the Prevention and Suppression of Money Laundering and Terrorist Financing Law or, where appropriate, Directive (EU) 2015/849 as well as financial information units;

(h) competent authorities or bodies responsible for the application of the rules on structural separation within a banking group.

(2) Notwithstanding the provisions of sections 14 and 15, the Commission may disclose to bodies which administer deposit-guarantee schemes and investor compensation schemes information necessary for the exercise of their functions.

(3) The information received shall in any event be subject to professional secrecy requirements at least equivalent to those referred to in section 14.

Exchange of information with oversight bodies.

18.-(1) Notwithstanding sections 14,15 and 16, the Commission may exchange information between the other authorities of the Republic and the authorities responsible for overseeing:

(a) the bodies involved in the liquidation and bankruptcy of institutions and in other similar procedures;

(b) contractual or institutional protection schemes as referred to in Article 113(7) of Regulation (EU) No 575/2013;

(c) persons charged with carrying out statutory audits of the accounts of institutions, insurance undertakings and financial institutions.

(2) In the cases referred to in subsection (1), the following conditions shall be at least fulfilled:

(a) that the information is exchanged for the purpose of performing the tasks referred to in subsection (1);

(b) that the information received is subject to professional secrecy requirements at least equivalent to those referred to in the provisions of section 14;

(c) where the information originates in another Member State, that it is not disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

(3) The Commission shall communicate to EBA the names of the authorities or bodies which may receive information pursuant to this section.

Transmission of information concerning monetary, deposit protection, systemic and payment aspects.

19.-(1) The Commission shall transmit information to the following for the purposes of its tasks:

(a) ESCB central banks and other bodies with a similar function in their capacity as monetary authorities when the information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and settlement systems and the safeguarding of stability of the financial system;

(b) contractual or institutional protection schemes as referred to in Article 113(7) of Regulation (EU) No 575/2013;

(c) other public authorities responsible for overseeing payment systems;

(d) the ESRB, EIOPA and ESMA, where that information is relevant for the exercise of their tasks under Regulations (EU) No 1092/2010, (EU) No 1094/2010 or (EU) No 1095/2010.

(2) The Commission shall take the appropriate measures to remove obstacles preventing the transmission of information in accordance with subsection (1).

(3) The entities provided for in subsection (1) may communicate to the Commission such information as it may need for the purposes of section 15.

(4) Information received in accordance with subsections (1), (2) and (3) shall be subject to professional secrecy requirements at least equivalent to those referred to in section 14.

(5) In an emergency situation as provided in section 74(1), the Commission shall communicate, without delay, information to:

(a) the ESCB central banks where the information is relevant for the exercise of their statutory tasks, including the conduct of monetary policy and related liquidity provision, the oversight of payments, clearing and settlement systems, and the safeguarding of the stability

of the financial system, and

(b) the ESRB where such information is relevant for the exercise of its statutory tasks.

Transmission of information to international organisations.

20.-(1) Notwithstanding sections 14 and 15, the Commission may, by virtue of provisions laid down in subsections (2), (3) and (4), transmit or exchange certain information to the following:

(a) the International Monetary Fund and the World Bank for the purposes of assessments for the Financial Sector Assessment Programme;

(b) the Bank for International Settlements for the purposes of quantitative impact studies;

(c) the Financial Stability Board for the purposes of its surveillance function.

(2) The Commission may only share confidential information following an explicit request by the relevant body, where at least the following conditions are met:

(a) the request is duly justified in light of the specific tasks performed by the requesting body in accordance with its statutory mandate;

(b) the request is sufficiently precise as to the nature, scope, and format of the required information, and the means of its disclosure or transmission;

(c) the requested information is strictly necessary for the performance of the specific tasks of the requesting body and does not go beyond the statutory tasks conferred on the requesting body;

(d) the Commission transmits or discloses information exclusively to the persons directly involved in the performance of the specific task;

(e) the persons having access to the information are subject to professional secrecy requirements at least equivalent to those referred to in the provisions of section 14.

(3) Where the request is made by any of the entities referred to in subsection (1), the Commission may only transmit aggregate or anonymised information and may only share other information at the premises of the Commission.

(4) To the extent that the disclosure of information involves processing of personal data, any processing of personal data by the requesting body shall comply with the requirements laid down in Regulation (EU) 2016/679.

Transmission of information to other entities.

21.-(1) Notwithstanding the provisions laid down in sections 14 and 15, the Commission may, by virtue of provisions laid down in the law, disclose certain information to public departments responsible for law on the supervision of institutions, financial institutions and insurance undertakings and to inspectors acting on behalf of those departments.

(2) The Commission may proceed to disclosures under subsection (1) only where necessary for reasons of prudential supervision, and prevention and resolution of failing institutions.

(3) Without prejudice to subsections (5) and (6) of this Section, persons having access to the information shall be subject to professional secrecy requirements at least equivalent to those referred to in section 14.

(4) In an emergency situation as referred to in section 74, the Commission may disclose information which is relevant to the departments referred to in subsection (1), in the departments of Member States referred to in subsection (1).

(5) The Commission may disclose certain information relating to the prudential supervision of CIFs to parliamentary enquiry committees, courts of auditors and other entities in charge of enquiries in the Republic, under the following conditions:

(a) that the entities have a precise mandate under law to investigate or scrutinise the actions of the Commission responsible for the supervision of CIFs or for the enactment of laws on such supervision;

(b) that the information is strictly necessary for fulfilling the mandate referred to in paragraph (a);

(c) the persons with access to the information are subject to professional secrecy requirements under law of the Republic at least equivalent to those referred to in section 14;

(d) where the information originates in another Member State that it is not disclosed without the express agreement of the competent authorities which have disclosed it and, solely for the purposes for which those authorities gave their agreement.

(6) To the extent that the disclosure of information relating to prudential supervision involves processing of personal data, any processing by the entities referred to in subsection (5) shall comply with the provisions of Regulation (EU) 2016/679 and the Protection of Natural Persons with regard to the Processing of Personal Data and on the Free Movement of such Data Law.

Disclosure of information obtained by on-

22. Information received under section 13(3), section 14(1) and section 17 and information obtained by means of an on-the-spot check or inspection referred to in paragraphs (a) and (b) of section 13(1) shall not be disclosed

the-spot checks and inspections.

under section 21 save with the express consent of the Commission or other competent authority which disclosed the information or of the competent authority of the Member State in which such an on-the-spot check or inspection was carried out.

Disclosure of information concerning clearing and settlement services.

23.-(1) Nothing in sections 10 to 33 and 98 shall prevent the Commission from communicating the information referred to in sections 14, 15 and 16 to a settlement or clearing house or other similar body recognised under Cypriot law for the provision of clearing or settlement services for a market in the Republic, if it considers that it is necessary to communicate the information in order to ensure the proper functioning of those bodies in relation to defaults or potential defaults by market participants.

(2) The information received under subsection (1) shall be subject to professional secrecy requirements at least equivalent to those referred to in section 14.

(3) The Commission shall not disclose under section 14(1) information received in the circumstances referred to in subsection (1) without the express consent of the competent authorities, which have disclosed it.

Processing of personal data.
125(I) of 2018.

24. The processing of personal data for the purposes of this Law shall be carried out in accordance with the provisions of the Protection of Natural Persons with regard to the Processing of Personal Data and on the Free Movement of such Data Law.

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

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

25.-(1) Any person authorised in accordance with the Auditors Law and which exercises in a CIF the duties described in section 78 of the Investment Services and Activities and Regulated Markets Law or any other legal duty, shall be subject to the obligations of the said section.

(2) The Commission may require the replacement of a person referred to in subsection (1) if that person acts in breach of his or her obligations under this section.

(3) Subject and in addition to the provisions of section 78 of the Investment Services and Activities and Regulated Markets Law, the auditor shall disclose any fact or decision made under the said section and under this section, simultaneously to the Commission and to the board of directors of the CIF, unless there are compelling reasons not to do so.

Supervisory powers and powers to impose penalties

Withdrawal of

26. The Commission may withdraw a CIF authorization only if a CIF:

authorization.

(a) no longer meets the prudential requirements set out in Parts Three, Four or Six, save the requirements defined in Articles 92a and 92b of Regulation (EU) No 575/2013 or imposed under section 61(1)(a) or section 65 of this Law or can no longer be relied on to fulfil its obligations towards its creditors, and, in particular, no longer provides security for the assets entrusted to it by its depositors;

(b) falls within one of the other cases where Cypriot law provides for withdrawal of authorisation; or

(c) commits one of the breaches referred to in section 29(1)(a) to (o).

Supervisory powers and powers to impose penalties.

27.-(1) The Commission shall have and exercise its supervisory powers and the powers to intervene in the activity of CIFs, financial holding companies and mixed financial holding companies, that are necessary for the exercise of its function, including in particular the right to withdraw an authorisation in accordance with section 26, the powers referred to in sections 26, 60, 61 and 65 as well as the powers to take the measures referred to in subsection (8) and paragraphs (a) to (g) of section 79(9).

(2) The Commission shall exercise its supervisory powers and the powers to impose penalties in accordance with this Law and with the directives issued pursuant to this Law and with Cyprus law, in any of the following ways:

(a) directly;

(b) in collaboration with other authorities;

(c) under its responsibility by delegation to such authorities;

(d) to the extent provided for in Cypriot law by application to the competent judicial authorities.

(3) The decisions taken by the Commission in the exercise of its supervisory powers and its powers to impose penalties shall state the reasons on which they are based.

Administrative penalties and other administrative measures.

28.-(1) Without prejudice to section 27, the Commission, taking all necessary measures to ensure that the provisions of this Law and of the directives issued pursuant to this Law and of Regulation (EU) No 575/2013 are observed and implemented and in case of breach therof, shall impose, mutatis mutandis, administrative penalties and other administrative measures pursuant to the provisions of subsection s (2) to (4) of section 29.

(2) The Commission shall ensure that the administrative penalties and other administrative measures imposed shall be effective, proportionate and dissuasive.

(3) Where the obligations referred to in subsection (1) apply to CIFs, financial holding companies and mixed financial holding companies, in the event of a breach of the provisions of this Law and of the directives issued pursuant to this Law and of Regulation (EU) No 575/2013, the Commission may apply penalties to the members of the board of directors and to other natural persons who are responsible for the breach.

(4) The Commission shall have all information gathering and investigatory powers that are necessary for the exercise of its functions. Without prejudice to other relevant provisions laid down in this Law and in the directives issued pursuant to this Law and in Regulation (EU) No 575/2013 those powers shall include:

(a) the power to require the following natural or legal persons to provide all information that is necessary in order to carry out the tasks of the Commission, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes:

(i). CIFs established in the Republic;

(ii). financial holding companies established in the Republic;

(iii). mixed financial holding companies established in Republic;

(iv). mixed-activity holding companies established in the Republic;

(v). persons belonging to the entities referred to in points (i) to (iv);

(vi). third parties to whom the entities referred to in points (i) to (iv) have outsourced operational functions or activities.

(b) the power to conduct all necessary investigations of any person referred to in points (a)(i) to (vi) established or located in the Republic, where necessary, to carry out the tasks of the Commission as competent authority, including:

(i). the right to require the submission of documents;

(ii). to examine the books and records of the persons referred to in points(a)(i) to (vi) and take copies or extracts from such books and records;

(iii). to obtain written or oral explanations from any person referred to in points (a) (i) to (vi) or their representatives or staff; and

(iv). to interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject matter

of an investigation;

(c) the power, subject to other conditions set out in European Union law, to conduct all necessary inspections at the business premises of the legal persons referred to in points (a)(i) to (vi) and any other undertaking included in consolidated supervision where the Commission is the consolidating supervisor, subject to the prior notification of the competent authorities concerned;

(d) If an inspection referred to in paragraph (c) requires authorisation by a judicial authority under Cypriot law, such authorisation shall be applied for.

Administrative penalties for specific breaches.

29.-(1) Without prejudice to the provisions of this Law, the provisions of this Law shall apply at least in any of the following circumstances:

(a) the CIF has obtained an authorisation through false statements or any other irregular means;

(b) the CIF fails to have in place governance arrangements required in accordance with the provisions of section 35;

(c) the CIF fails to report information or provides incomplete or inaccurate information on compliance with the obligation to meet own funds requirements set out in Article 92 of Regulation (EU) No 575/2013 to the Commission in breach of Article 99(1) of that Regulation;

(d) the CIF fails to report or provides incomplete or inaccurate information to the Commission in relation to the data referred to in Article 101 of Regulation (EU) No 575/2013;

(e) the CIF fails to report information or provides incomplete or inaccurate information about a large exposure to the Commission in breach of Article 394(1) of Regulation (EU) No 575/2013;

(f) the CIF fails to report information or provides incomplete or inaccurate information on liquidity to the Commission in breach of Article 415(1) and (2) of Regulation (EU) No 575/2013;

(g) the CIF fails to report information or provides incomplete or inaccurate information on the leverage ratio to the Commission in breach of Article 430(1) of Regulation (EU) No 575/2013;

(h) the CIF repeatedly or persistently fails to hold liquid assets in breach of Article 412 of Regulation (EU) No 575/2013;

(i) the CIF incurs an exposure in excess of the limits set out in Article

395 of Regulation (EU) No 575/2013;

(j) the CIF is exposed to the credit risk of a securitisation position without satisfying the conditions set out in Article 405 of Regulation (EU) No 575/2013;

(k) the CIF fails to disclose information or provides incomplete or inaccurate information in breach of Article 431(1), (2) and (3) or Article 451(1) of Regulation (EU) No 575/2013;

(l) the CIF makes payments to holders of instruments included in the own funds of the CIF in breach of section 90 of this Law or in cases where Articles 28, 51 or 63 of Regulation (EU) No 575/2013 prohibit such payments to holders of instruments included in own funds;

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(m) the CIF is found liable for serious breaches of the Prevention and Suppression of Money Laundering Activities and Financing of Terrorism Law and/or of the Directive of the Cyprus Securities and Exchange Commission on the Prevention and Suppression of Money Laundering Activities and Financing of Terrorism Law, as amended;

(n) the CIF allows one or more persons not complying with section 9 of the Investment Services and Activities and Regulated Markets Law to become or remain a member of its board of directors.

(o) a parent institution, a parent financial holding company or a parent mixed financial holding company fails to take any action that may be required to ensure compliance with the prudential requirements set out in Part Three, Four, Six or Seven of Regulation (EU) No 575/2013 or imposed under paragraph (a) of section 61(1) or section 65 on a consolidated or sub-consolidated basis.

(2) In the cases referred to in subsection (1), the administrative penalties and other administrative measures that can be applied by the Commission include at least the following:

(a) a public statement which identifies the natural person, CIF, financial holding company or mixed financial holding company responsible and the nature of the breach;

(b) an order requiring the CIF or the natural or legal person responsible to cease the illegal conduct and to desist from a repetition of that conduct in the future;

(c) withdrawal of the authorisation of the CIF in accordance with section 26;

(d) subject to section 28(3), a temporary ban against a member of the board of directors or any other natural person, who is held

responsible, of the CIF from exercising functions in the CIF;

(e) administrative pecuniary penalties to the CIF of up to ten per cent (10%) of the total annual net turnover including the gross income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees receivable in accordance with Article 316 of Regulation (EU) No 575/2013 of the undertaking in the preceding business year;

(f) administrative penalties to a natural person of up to five million Euro (€5,000,000);

(g) administrative penalties of up to twice the amount of the profits gained or losses avoided because of the breach where those can be determined.

(3) Where, despite the imposition by the Commission of the administrative measures provided for in paragraphs (b) and (d) of subsection (2), the natural or legal person responsible or the CIF responsible, the investment holding company or mixed financial holding company responsible, refuses or fails to comply therewith, the Commission may impose the administrative penalties provided for in paragraphs (e) to (g) of subsection (2).

(4) Where the CIF referred to in paragraph (e) of subsection (2) is a subsidiary of a parent undertaking, the relevant gross income shall be the gross income resulting from the consolidated account of the ultimate parent undertaking in the preceding business year.

Publication of administrative penalties.

30.-(1) The Commission shall publish on its official website any administrative fine or other administrative penalty imposed for breach of this Law and/or of the directives issued pursuant to this Law and/or of Regulation (EU) No 575/2013, including information on the type and nature of the breach and the identity of the natural or legal person on whom the penalty is imposed, without undue delay after that person is informed of those penalties.

(2) Where an appeal is made, in respect of any administrative fine or administrative penalty of the Commission, before a competent court under Article 146 of the Constitution, or any other available proceeding or remedy, the Commission shall, without undue delay, publish on its official website information on the appeal status or the appeal of the other available proceeding or remedy exercised and outcome thereof.

(3) The Commission shall publish the administrative fine or administrative penalty on an anonymous basis, in a manner in accordance with Cyprus law, in any of the following circumstances:

(a) where an administrative fine or administrative penalty is imposed on a natural person and, following an obligatory prior assessment, publication of personal data is found to be disproportionate;

(b) where publication would jeopardise the stability of financial markets or an ongoing criminal investigation;

(c) where publication would cause, insofar as it can be determined, disproportionate damage to the CIF or natural person involved.

(4) Alternatively, where the circumstances referred to in subsection (3) are likely to cease within a reasonable period of time, publication under subsections (1) and (2) may be postponed for such a period of time.

(5) The Commission shall ensure that information published under subsections (1) and (2) or (3) remains on its official website at least five (5) years.

(6) Personal data shall be retained on the official website of the Commission only for the period necessary, in accordance with the provisions of the Protection of Natural Persons with regard to the Processing of Personal Data and on the Free Movement of such Data Law.

Exchange of information on penalties.

31.-(1) Subject to the professional secrecy requirements referred to in section 14, the Commission shall inform EBA of all administrative penalties, including all permanent prohibitions, imposed under sections 28 and 29 as well as of any appeal in relation thereto and the outcome thereof.

(2) Where the Commission assesses good repute for the purposes of section 9(2) of the Investment Services and Activities and Regulated Markets Law and of section 83, it shall consult the EBA database of administrative penalties.

(3) The Commission shall check, in accordance with Cyprus law, the existence of a relevant conviction in the criminal record of the person concerned and for those purposes, information shall be exchanged in accordance with Council of Ministers Decision no. 71.068.

Official Gazette. Annex Four (I): 21.04.2011.

Effective application of penalties and exercise of powers to impose penalties by the Commission.

32.-(1) When determining the type of administrative fines or other administrative penalties under section 28 and the level of administrative pecuniary penalties, the Commission shall take into account all relevant circumstances, including, where appropriate:

(a) the gravity and the duration of the breach;

(b) the degree of responsibility of the natural or legal person responsible for the breach;

(c) the financial strength of the natural or legal person responsible for

the breach, as indicated, for example, by the total turnover of a legal person or the annual income of a natural person;

(d) the importance of profits gained or losses avoided by the natural or legal person responsible for the breach, insofar as they can be determined;

(e) the losses for third parties caused by the breach, insofar as they can be determined;

(f) the level of cooperation of the natural or legal person responsible for the breach, with the Commission;

(g) previous breaches by the natural or legal person responsible for the breach;

(h) any potential systemic consequences of the breach.

Reporting of breaches.

33.-(1) The Commission shall establish effective and reliable mechanisms to encourage reporting of potential or actual breaches of this Law, of the directives issued pursuant to this Law and of Regulation (EU) No 575/2013 on persons under its supervision.

(2) The mechanisms referred to in subsection (1) shall include at least:

(a) specific procedures for the receipt of reports on breaches and their follow-up;

(b) appropriate protection for employees of a CIF who report breaches committed within the CIF against retaliation, discrimination or other types of unfair treatment at a minimum;

(c) protection of personal data concerning both the person who reports the breaches and the natural person who is allegedly responsible for a breach, in accordance with the provisions of Directive (EU) 2016/679 and the Protection of Natural Persons with regard to the Processing of Personal Data and on the Free Movement of such Data Law.

(d) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the CIF, unless disclosure is required by Cyprus law in the context of further investigations or subsequent judicial proceedings.

(3) The CIF shall have in place appropriate procedures for their employees to report breaches internally to the CIF through a specific, independent and autonomous channel.

Review Processes
Internal capital adequacy assessment process

Internal capital.

34.-(1) CIFs shall have in place sound, effective and comprehensive strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed.

(2) The strategies and processes provided for in subsection (1) shall be subject to regular internal review to ensure that they remain comprehensive and proportionate to the nature, scale and complexity of the activities of the CIF concerned.

Arrangements, processes and mechanisms of CIFs – General principles

Internal governance and recovery and resolution plans.

35.-(1) CIFs shall have robust governance arrangements, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks they are or might be exposed to, adequate internal control mechanisms, including sound administration and accounting procedures, and remuneration policies and practices that are consistent with and promote sound and effective risk management.

(2) The remuneration policies and practices referred to in subsection (1) shall be gender neutral.

(3) Taking into account the technical criteria laid down in sections 76 to 95 of Directive 2013/36/EU, the CIF shall ensure that the arrangements, processes and mechanisms referred to in subsection (1) shall be comprehensive and proportionate to the nature, scale and complexity of the risks inherent in the business model and the activities of the CIF.

Oversight of remuneration policies.

36.-(1) The Commission shall collect the information disclosed in accordance with the criteria for disclosure established in points (g), (h), (i) and (k) of Article 450(1) of Regulation (EU) No 575/2013 as well as the information provided by CIFs on the gender pay gap and shall use that information to benchmark remuneration trends and practices.

(2) The Commission shall provide EBA with the information provided for in subsection (1).

(3) The Commission shall collect information on the number of natural persons per CIF that are remunerated one million Euro (€1,000,000) or more per financial year, in pay brackets of one million Euro (€1,000,000), including their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution.

(4) The information collected under subsection (1) shall be forwarded to

EBA, which shall publish it on an aggregate home Member State basis in a common reporting format.

Technical criteria concerning the organization and treatment of risks

Treatment of risks.

37.-(1) The board of directors of the CIF shall approve and periodically review the strategies and policies for taking up, managing, monitoring and mitigating the risks the institution 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)(a) The board of directors of the CIF shall devote sufficient time to consideration of risk issues.

(b) 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 Law and in the directives issued pursuant to this Law 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.

(c)The CIF shall establish reporting lines to the board of directors that cover all material risks and risk management policies and changes thereof.

(3)(a) The CIF that is significant in terms of their size, internal organisation and the nature, scope and complexity of their activities shall establish a risk committee composed of members of the board of directors who do not perform any executive function in the CIF concerned.

(b)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.

(c)The risk committee shall 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.

(d)The board of directors shall retain overall responsibility for risks.

(e)The risk committee shall review whether prices of liabilities and assets offered to clients take fully into account the CIF’s business model and risk strategy.

(f)Where the prices referred to in paragraph (e) 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.

(g)The Commission may allow a CIF which is not considered significant as referred to in paragraph (a) to combine the risk committee with the audit committee as referred to in section 78 of the Auditors Law.

(h) Members of the combined committee shall have the knowledge, skills and expertise required for the risk committee and for the audit committee.

(4)(a) The board of directors in its supervisory function and, where a CIF's 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.

(b)The board of directors in its supervisory function and, where one has been established, the risk committee shall determine the nature, the amount, the format, and the frequency of the information on risk which it is to receive.

(c) 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.

(5)(a)The CIF shall, provided it is fair and proportionate, taking into account the nature, scale and complexity of the CIF's business activities, 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.

(b)The CIF's risk management function:

(i). shall put in place procedures so that all material risks are identified, measured and properly reported; and

(ii). shall be actively involved in elaborating the CIF's risk strategy and in all material risk management decisions and can deliver a complete view of the whole range of risks of the CIF.

(c) Where necessary, the CIF's risk management function can report directly to the board of directors in its supervisory function, independent from senior management, and can raise concerns and warn that board, where appropriate, where specific risk developments affect or may affect the CIF, without prejudice to the responsibilities of the board of directors in its supervisory and/or managerial functions pursuant to this Law and Regulation (EU) No 575/2013.

(d) The head of the risk management function shall be an independent senior manager with distinct responsibility for the risk management function.

(e) 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.

(f) The head of the risk management function shall not be removed without

prior approval of the board of directors in its supervisory function and shall be able to have direct access to the board of directors in its supervisory function where necessary.

Internal approaches for calculating own funds requirements.

38.-(1) The CIF that is significant in terms of its size, internal organisation and the nature, scale and complexity of their activities shall develop internal credit risk assessment capacity and increase use of the internal ratings based approach for calculating own funds requirements for credit risk where its exposures are material in absolute terms and where it has at the same time a large number of material counterparties.

(2) The provisions of this section shall be without prejudice to the fulfilment of criteria laid down in Part Three, Title I, Chapter 3, Section 1 of Regulation (EU) No 575/2013.

(3)The Commission shall, taking into account the nature, scale and complexity of the CIF's activities, monitor that the CIF referred to in subsection (1) does not solely or mechanistically rely on external credit ratings for assessing the creditworthiness of an entity or financial instrument.

(4)The CIF, taking into account its size, internal organisation and the nature, scale and complexity of its activities, shall develop internal specific risk assessment capacity and 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.

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

Supervisory benchmarking of internal approaches for calculating own funds requirements.

39.-(1) The CIF 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.

(2) The CIF referred to in subsection (1) 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.

(3) The CIF shall submit the results of the calculations referred to in subsections (1) and (2) in accordance with the template developed by EBA in accordance with Article 78(8) of Directive 2013/36/EU to EBA and to the Commission that, where it chooses to develop specific portfolios, it shall do so

in consultation with EBA and ensure that the CIF reports the results of the calculations separately from the results of the calculations for EBA portfolios.

(4) The Commission shall, on the basis of the information submitted by the CIF in accordance with subsections (2) and (3), 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 the said CIF.

(5) 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 underestimation of own funds requirements.

(6) Where the CIF diverges 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 therefor and, if it can be clearly identified that the 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.

(7) The decisions of the Commission on the appropriateness of corrective actions as referred to in subsection (6) shall 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.

40.-(1) The Commission shall ensure that:

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

(b) the CIF has internal methodologies that enable it to assess the credit risk of exposures to individual obligors, securities or securitisation positions and credit risk at the portfolio level, that do not rely solely or mechanistically on external credit ratings.

(c) 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 the CIF from additionally considering other relevant information for assessing their allocation of internal capital;

(d) the ongoing administration and monitoring of the various credit risk-bearing portfolios and exposures of the CIF, including for identifying and managing problem credits and for making adequate value adjustments and provisions, is operated through effective systems;

(e) diversification of credit portfolios is adequate given the CIF's target markets and overall credit strategy.

Residual risk.

41. The CIF shall address and control including by means of written policies and procedures, the risk that the recognised credit risk mitigation techniques used by the CIF prove less effective than expected.

Concentration risk.

42. The CIF shall address and control including by means of written policies and procedures, 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.

Securitisation risk.

43.-(1) The CIF shall evaluate and address through appropriate policies and procedures, the risks arising from securitisation transactions in relation to which the CIF is investor, originator or sponsor, including reputational risks, such as arise in relation to complex structures or products, to ensure that the economic substance of the transaction is fully reflected in the risk assessment and management decisions.

(2) Where the CIF is an originator of revolving securitisation transactions involving early amortisation provisions, it shall have in place liquidity plans to address the implications of both scheduled and early amortization.

Market risk.

44.-(1) The CIF shall 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, the CIF shall also take measures against the risk of a shortage of liquidity.

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

(b) The CIF, which has, 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 its 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 shall 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.

(c) The CIF shall also have such adequate internal capital where it holds opposite positions in stock-index futures which are not identical in respect of either their maturity or their composition or both.

(d) Where using the treatment in Article 345 of Regulation (EU) No 575/2013, the CIF shall 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.

45.(1) The Commission shall ensure that the CIFs implement internal systems and use the standardised methodology or the simplified standardised methodology to identify, evaluate, manage and mitigate the risks arising from potential changes in interest rates that affect both the economic value of equity and the net interest income of non-trading book activities of CIFs.

(2) The Commission shall ensure that CIFs implement systems to assess and monitor the risks arising from potential changes in credit spreads that affect both the economic value of equity and the net interest income of non-trading book activities of CIFs.

(3) The Commission may require a CIF to use the standardised methodology referred to in subsection (1) where the internal systems implemented by that CIF for the purpose of evaluating the risks referred to in that paragraph are not satisfactory.

(4) The Commission may require a small and non-complex CIF as defined in point (145) of Article 4(1) of Regulation (EU) No 575/2013 to use the standardised methodology where it considers that the simplified standardised methodology is not adequate to capture interest rate risk arising from non-trading book activities of that institution.

Operational risk.

46.-(1) The Commission shall ensure that CIFs implement policies and processes to evaluate and manage the exposures to operational risk, including model risk and risks resulting from outsourcing, and to cover low-frequency high-severity events.

(2) For the purposes of the policies and procedures referred to in subsection (1), CIFs shall articulate what constitutes operational risk.

(3) The Commission shall ensure that contingency and business continuity plans are in place in a CIF to ensure its ability to operate on an ongoing basis and limit losses in the event of severe business disruption.

Liquidity risk.

47.-(1) The CIF shall 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 institutions maintain adequate levels of liquidity buffers.

(2) The strategies, policies, processes and systems referred to in subsection (1) shall be tailored to business lines, currencies, branches and legal entities and shall include adequate allocation mechanisms of liquidity costs, benefits and risks.

(3) The strategies, policies, processes and systems referred to in subsections (1) and (2) shall 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 each Member State in which it carries out business.

(4) The CIF shall communicate risk tolerance to all relevant business lines.

(5)(a)The CIF shall, taking into account the nature, scale and complexity of its activities, have a liquidity risk profile that is consistent with and, not in excess of, those required for a well-functioning and robust system.

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

(c)The Commission shall take effective action where developments referred to in paragraph (b) may lead to individual CIF or systemic instability.

(d) The Commission shall inform EBA about any actions carried out pursuant to the provisions of paragraph (c).

(6) The CIF shall develop methodologies for the identification, measurement, management and monitoring of funding positions.

(7)The methodologies referred to in subsection (6) 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.

(8)The CIF shall distinguish between pledged and unencumbered assets that are available at all times, in particular during emergency situations.

(9)The CIF shall 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.

(10)The CIF shall 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.

(11) The CIF shall 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.

(12) The arrangements referred to in subsection (11) shall be reviewed regularly.

(13) The CIF shall consider alternative scenarios on liquidity positions and on risk mitigants and review the assumptions underlying decisions concerning the funding position at least annually.

(14) For the purposes of subsection (13), 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.

(15) The CIF shall consider the potential impact of CIF-specific, market-wide and combined alternative scenarios.

(16) For the purposes of subsection (15), different time periods and varying degrees of stress conditions shall be considered.

(17) The CIF shall 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 subsections (13) and (14).

(18) The CIF shall 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 other Member States.

(19) The plans referred to in subsection (18) shall be tested by the CIF at least annually, updated on the basis of the outcome of the alternative scenarios set out in subsections (13) and (14), reported to and approved by senior management, so that internal policies and processes can be adjusted accordingly.

(20) The CIF shall take the necessary operational steps in advance to ensure that liquidity recovery plans can be implemented immediately.

Risk of excessive leverage.

48.-(1) The CIF shall have policies and processes in place for the identification, management and monitoring of the risk of excessive leverage.

(2) 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.

(3) The CIF shall 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.

(4) For the purposes of subsection (3), the CIF shall be able to withstand a range of different stress events with respect to the risk of excessive leverage.

Governance

Country-by-country reporting.

49.-(1) The CIF shall 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 subsection (1) shall be audited in accordance with the Auditors Law 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.

(3) To the extent that future Union legislative acts for disclosure obligations go beyond those laid down in this section, this section shall cease to apply.

Public disclosure of return on assets.

50. The CIF shall disclose in its annual report among the key indicators their return on assets, calculated as their net profit divided by its total balance sheet.

Remuneration policies.

51.-(1) When establishing and applying the total remuneration policies, inclusive of salaries and discretionary pension benefits, for categories of staff whose professional activities have a material impact on the CIF's risk profile, the CIF shall comply with the following requirements in a manner that is appropriate to its size, internal organisation and the nature, scope and complexity of its 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 and is gender neutral;

(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 and is gender neutral;

(c) the CIF's board of directors in its supervisory function 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 approved by the board of directors in its supervisory function;

(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 shall be directly overseen by the remuneration committee referred to in section 53 of this Law or, if such a committee has not been established, by the board of directors in its supervisory function;

(g) the remuneration policy, taking into account criteria on wage setting in the Republic, shall make 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.

(2) For the purposes of subsection (1), categories of staff whose professional activities have a material impact on the CIF's risk profile shall, at least, include:

(a) all members of the board of directors and senior management;

(b) staff members with managerial responsibility over the CIF's control

functions or material business units;

(c) staff members entitled to significant remuneration in the preceding financial year, provided that the following conditions are met:

(i). the staff member's remuneration is equal to or greater than five hundred thousand Euro (€500,000) and equal to or greater than the average remuneration awarded to the members of the CIF's board of directors and to senior management referred to in paragraph (a);

(ii). the staff member performs the professional activity within a material business unit and the activity is of a kind that has a significant impact on the relevant business unit's risk profile.

Variable elements of remuneration.

52.-(1) For variable elements of remuneration, the following principles shall apply in addition to, and under the same conditions as, those set out in paragraphs (a) to (g) and sub-paragraphs (i) and (ii) of paragraph (g) of section 51(1):

(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 longer-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) the CIF shall 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 hundred per cent (100%) of the fixed component of the total remuneration for each individual;

(ii). shareholders or owners or members 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 two hundred per cent (200%) of the fixed component of the total remuneration for each individual.

(iii). any approval of a higher ratio in accordance with subparagraph (ii) shall be carried out in accordance with the following procedure:

(A). The shareholders or owners or members of the CIF shall 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;

(B). By derogation of the provisions of any other law, shareholders or owners or members of the CIF shall act by a majority of at least sixty-six per cent (66%) provided that at least fifty per cent (50%) of the shares or equivalent ownership rights are represented or, failing that, shall act by a majority of seventy-five per cent (75%) of the ownership rights represented;

(C). the CIF shall notify all its shareholders or owners or members, providing a reasonable notice period in advance, that an approval under subparagraph (ii) of this paragraph shall be sought;

(D). the CIF shall, without delay, inform the Commission of the recommendation to its shareholders or owners or members, including the proposed higher maximum ratio and the reasons therefore and shall be able to demonstrate to the Commission that the proposed higher ratio does not conflict with the CIF’s obligations under this Law and under the directives issued pursuant to this Law

and under Regulation (EU) No 575/2013, having regard in particular to the CIF's own funds obligations;

(E). the CIF shall, without delay, inform the Commission of the decisions taken by its shareholders or owners or members, including any approved higher maximum ratio pursuant to subparagraph (ii) of this paragraph, and the Commission shall use the information received to benchmark the practices of CIFs in that regard;

(F). the Commission shall provide EBA with that information;

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

(iv) the CIF may apply the discount rate to a maximum of twenty-five per cent (25%) of total variable remuneration provided it is paid in instruments that are deferred for a period of not less than five (5) 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 shall also take into account all types of current and future risks;

(l) a substantial portion, and in any event at least fifty per cent (50%) of any variable remuneration shall 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, subject to the legal structure of the CIF concerned;

(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;

(iii). the instruments referred to in this paragraph shall be subject to an appropriate retention policy designed to align incentives with the longer-term interests of the CIF;

(iv). the Commission may place restrictions on the types and designs of those instruments or prohibit certain instruments as appropriate;

(v). this paragraph shall be applied to both the portion of the variable remuneration component deferred in accordance with paragraph (m) and the portion of the variable remuneration component not deferred;

(m) a substantial portion, and in any event at least forty per cent (40%), of the variable remuneration component is deferred over a period which is not less than four (4) to five (5) years and is correctly aligned with the nature of the business, its risks and the activities of the staff member concerned. For members of the board of directors and senior management of the CIF that are significant in terms of its size, internal organisation and the nature, scope and complexity of its activities, the deferral period should not be less than five (5) years. 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 sixty per cent (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 staff member concerned;

(n) (i). 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;

(ii). without prejudice to the general principles of Cyprus labour law, including the provisions on labour contracts, 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.

(iii). up to hundred per cent (100%) of the total variable remuneration shall be subject to malus or clawback arrangements;

(iv). the CIF shall set specific criteria for the application of malus and clawback, which shall in particular cover situations where the staff member:

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

(B). 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 (5) years in the form of instruments referred to in paragraph (l). Where an employee reaches retirement, discretionary pension benefits shall be paid to the employee in the form of instruments referred to in paragraph (l) subject to a five-year retention period;

(p) staff members do 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 non-compliance with this Law or with the directives issued pursuant to this Law or with Regulation (EU) No 575/2013.

(2) By way of derogation from subsection (1), the requirements set out in paragraphs (l) and (m) and in paragraph (o)(ii)(iii) of the said subsection shall not apply to:

(a) a CIF that is not a large institution as defined in point (146) of Article 4(1) of Regulation (EU) No 575/2013 and the value of the assets of which is on average and on an individual basis in accordance with this Law and with Regulation (EU) No 575/2013 equal to or less than five billion Euro (€5,000,000,000) over the four-year period immediately preceding the current financial year;

(b) a staff member whose annual variable remuneration does not exceed fifty thousand Euro (€50,000) and does not represent more than one third of the staff member's total annual remuneration.

(3) By way of derogation from paragraph (a) of subsection (2), the Commission may lower or increase the threshold referred to in paragraph (a) of subsection (2), provided that:

(a) The CIF is not a large institution as defined in point (146) of Article 4(1) of Regulation (EU) No 575/2013 and, where the threshold is increased:

(i). the CIF meets the criteria set out in points (145)(c), (d) and (e) of Article 4(1) of Regulation (EU) No 575/2013; and

(ii). the threshold does not exceed fifteen billion Euro (€15,000,000,000);

(b) it is appropriate to modify the threshold in accordance with this subsection taking into account the CIF's nature, scope and complexity of its activities, its internal organisation or, if applicable, the characteristics of the group to which it belongs.

(4) By way of derogation from paragraph (b) of subsection (2), the Commission may decide that staff members entitled to annual variable remuneration below the threshold and share referred to in paragraph (2) of subsection (2) shall not be subject to the exemption set out in paragraph (b) of subsection (2) because of Cyprus market specificities in terms of remuneration practices or because of the nature of the responsibilities and job profile of those staff members.

Remuneration committee.

53.-(1) The CIF that is significant in terms of its size, internal organisation and the nature, the scope and the complexity of their activities shall establish a remuneration committee.

(2) The remuneration committee shall be constituted in such a way so 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.

(3) The remuneration committee under subsection (2) shall 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.

(4) The chairperson and the members of the remuneration committee shall be members of the board of directors who do not perform any executive function in the CIF concerned.

(5) If employee representation on the board of directors is provided for by Cyprus law, the remuneration committee shall include one or more employee representatives.

(6) 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.

54. The CIF that maintains a website shall explain there how it complies with the requirements of sections 9 and 10 of the Investment Services and Activities and Regulated Markets Law and sections 49 to 53.

Supervisory review and evaluation process

Supervisory review and evaluation.

55.-(1) Taking into account the technical criteria set out in section 56, the Commission shall review the arrangements, strategies, processes and mechanisms implemented by the CIF to comply with the provisions of this Law and with the directives issued pursuant to this Law and with Regulation (EU) No 575/2013 and evaluate:

(a) risks to which the CIF is or might be exposed; and

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

(2) The scope of the review and evaluation provided for in subsection (1) shall cover all requirements of this Law and of the directives issued pursuant to this Law and of Regulation (EU) No 575/2013.

(3) On the basis of the review and evaluation provided for in subsection (1), the Commission shall regulate by a directive thereof, whether the arrangements, strategies, processes and mechanisms implemented by the CIF and the own funds and liquidity held by it shall ensure a sound management and coverage of its risks.

(4) The Commission shall establish the frequency and intensity of the review and evaluation under subsection (1) having regard to the size, systemic importance, nature, scale and complexity of the activities of the CIF concerned and taking into account the principle of proportionality.

(5) The review and evaluation provided for in subsection (4) shall be updated at least on an annual basis for CIFs covered by the supervisory examination programme referred to in paragraphs (a) and (b) of section 57(3).

(6) When conducting the review and evaluation referred to in subsection (1), the Commission shall apply the principle of proportionality in accordance with the criteria disclosed pursuant to paragraph (c) of section 95(1).

(7) The Commission may tailor the methodologies for the application of the review and evaluation referred to in subsection (1) to take into account CIFs with a similar risk profile, such as similar business models or geographical location of exposures.

(8) The tailored methodologies referred to in subsection (7) may include risk-oriented benchmarks and quantitative indicators and allow for due consideration of the specific risks that each CIF may be exposed to, without affecting the CIF-specific nature of measures imposed in accordance with section 61.

(9) Where the Commission uses tailored methodologies pursuant to subsection (7), it shall notify EBA.

(10) Where a review shows that a CIF may pose systemic risk in accordance with Article 23 of Regulation (EU) No 1093/201, the Commission shall inform EBA without delay about the results of the review.

(11) Where a review, in particular the evaluation of the governance arrangements, the business model, or the activities of the CIF, gives the Commission reasonable grounds to suspect that, in connection with that CIF, money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof, the Commission shall immediately notify MOKAS.

(12) In the event of potential increased risk of money laundering or terrorist financing, the Commission and MOKAS shall liaise and notify their common assessment immediately to EBA.

(13) The Commission shall take, as appropriate, measures in accordance with the provisions of this Law and of the directives issued pursuant to this Law.

Technical criteria for the supervisory review and evaluation.

56.-(1) In addition to credit, market and operational risks, the review and evaluation performed by the Commission pursuant to section 55 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 the CIF applying an internal ratings based approach;

(b) the exposure to and management of concentration risk by the CIF, including its compliance with the requirements set out in Part Four of Regulation (EU) No 575/2013 and section 42;

(c) the robustness, suitability and manner of application of the policies and procedures implemented by the CIF 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 the 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 the CIF, 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 the CIF 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 the CIF's exposures;

(i) the business model of the CIF.

(2) For the purposes of paragraph (e) of subsection (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.

(3) While conducting those reviews, the Commission shall have regard to the role played by CIFs in the financial markets.

(4) Further to the provisions of subsection (3), the Commission shall duly consider the potential impact of its decisions on the stability of the financial system in all other Member States concerned.

(5) The Commission shall monitor whether a CIF has provided implicit support to a securitisation.

(6) If the Commission establishes that a CIF has provided implicit support on more than one occasion, the Commission shall take appropriate measures reflective of the increased expectation that the CIF shall provide future support to its securitisation thus failing to achieve a significant transfer of risk.

(7) For the purposes of the determination to be made under section 55(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.

(8)(a) The review and evaluation performed by the Commission shall include the exposure of the CIF to the interest rate risk arising from non-trading book activities.

(b) The Commission shall exercise the supervisory powers at least in the following cases:

(i). where a CIF's economic value of equity as referred to in section 45(1) declines by more than fifteen per cent (15%) of its Tier 1 capital as a result of a sudden and unexpected change in interest rates as set out in any of the six supervisory shock scenarios applied to interest rates;

(ii). where a CIF's net interest income as referred to in section 45(1) experiences a large decline as a result of a sudden and unexpected change in interest rates as set out in any of the two supervisory shock scenarios applied to interest rates.

(c) Notwithstanding the provisions of paragraph (b), the Commission shall not be obliged to exercise supervisory powers where it considers, based on the review and evaluation referred to in this subsection, that the CIF's management of interest rate risk arising from non-trading book activities is adequate and that the CIF is not excessively exposed to interest rate risk arising from non-trading book activities.

(9) For the purposes of subsection (8), the term "supervisory powers" means the powers referred to in section 61(1) or the power to specify modelling and parametric assumptions, other than those identified by EBA pursuant to point (b) of paragraph 5a of Article 98 of Directive 2013/36/EU, to be reflected by the CIFs in their calculation of the economic value of equity under section 45(1) of this Law.

(10) The review and evaluation performed by the Commission shall include the CIF's exposure 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.

(11) In determining the adequacy of the leverage ratio of the CIF and of the arrangements, strategies, processes and mechanisms implemented by the CIF to manage the risk of excessive leverage, the Commission shall take into account the business model of the CIF.

(12) The review and evaluation conducted by the Commission shall include governance arrangements of the CIF, its corporate culture and values, and the ability of members of the board of directors to perform its duties.

(13) In conducting the review and evaluation provided for in subsection (12), 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.

57.-(1) The Commission shall, at least annually, adopt a supervisory examination programme for the CIFs.

(2) The programme referred to in subsection (1) shall take into account the supervisory review and evaluation process under section 55 and 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 subsection (4);

(c) a plan for inspections at the premises used by the CIF, including its branches and subsidiaries established in other Member States in accordance with sections 13, 81 and 84.

(3) 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 section 56(1) and section 58, or the outcome of the supervisory review and evaluation process under section e 55, indicate significant risks to their ongoing financial soundness or indicate breaches of the provisions of this Law and of the directives issued pursuant to this Law and of Regulation (EU) No 575/2013;

(b) any other CIFs for which the Commission deems it to be necessary.

(4) Where appropriate under section 55 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) submission of 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.

(5) Adoption of a supervisory examination programme by the Commission, as competent authority of the home Member State, 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 the legislative provisions of the Member States concerned harmonizing Article 52(3) of

Directive 2013/36/EU.

(6) Where the Commission is the competent authority of the host Member State, it may carry out checks and inspections of the activities carried out by branches of CIFs in the Republic, despite the fact that the competent authority of the home Member State has adopted a supervisory examination programme.

Supervisory stress testing.

58. The Commission shall carry out as appropriate but at least annually supervisory stress tests on CIFs, to facilitate the review and evaluation process under section 55.

Ongoing review of the permission to use internal approaches.

59.-(1)(a) The Commission shall review on a regular basis, and at least every three (3) years, the CIF's compliance with the requirements regarding methods that require permission by the Commission before using such methods for the calculation of own funds requirements in accordance with Part Three of Regulation (EU) No 575/2013.

(b) The Commission shall have particular regard to changes in the CIF's business and to the implementation of those approaches to new products.

(c) Where material deficiencies are identified in risk capture by the CIF's internal approach, the CIF shall rectify 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)(a) If the 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 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.

(b) The Commission shall require improvements to that plan if it is unlikely to result in full compliance or if the deadline is inappropriate.

(c) 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 areas where compliance can be achieved within an appropriate deadline.

(5) In order to review the permissions they grant to CIFs to use internal approaches, the Commission shall take into account the analysis of internal approaches of various institutions, including the analysis of the consequences in the implementation of the definition of default risk and how those institutions treat similar risks or exposures and the benchmarks of this analysis conducted by EBA.

Supervisory measures and powers

Supervisory measures.

60.-(1) The CIF shall take the necessary measures at an early stage to address relevant problems in the following circumstances:

(a) the CIF does not meet the requirements of this Law and of the directives issued pursuant to this Law or of Regulation (EU) No 575/2013;

(b) the Commission has evidence that the CIF is likely to breach the requirements of this Law and of the directives issued pursuant to this Law or of Regulation (EU) No 575/2013 within the following twelve (12) months.

(2) For the purposes of subsection (1), the powers of the Commission shall include those referred to in section 61.

Supervisory powers.

61.-(1) For the purposes of section 55, section 56(7), (8) and (9), paragraphs (a) to (c) of section 59(4) and section 60 of this Law and of the application of Regulation (EU) No 575/2013, the Commission shall have at least the following powers to:

(a) require CIFs to have additional own funds in excess of the requirements set out in Regulation (EU) No 575/2013, under the conditions set out in section 62 of this Law;

(b) require the reinforcement of the arrangements, processes, mechanisms and strategies implemented in accordance with sections 34 and 35;

(c) require CIFs to submit a plan to restore compliance with supervisory requirements pursuant to this 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) require CIFs to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;

(e) 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 the CIF;

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

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

(i) restrict or prohibit distributions or interest payments by the 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) impose additional or more frequent reporting requirements, including reporting on own funds, liquidity and leverage;

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

(l) require additional disclosures.

(2)(a) For the purposes of paragraph (j) of subsection (1), the Commission may only impose additional or more frequent reporting requirements on CIFs where the relevant requirement is appropriate and proportionate with regard to the purpose for which the information is required and the information requested is not duplicative.

(b) For the purposes of sections 55 to 60, any additional information that may be required from CIFs shall be deemed as duplicative where the same or substantially the same information has already been otherwise reported to the Commission or may be produced by the Commission.

(c) The Commission shall not require a CIF to report additional information where it has previously received it in a different format or level of granularity and that different format or granularity does not prevent the Commission from producing information of the same quality and reliability as that produced on the basis of the additional information that would be otherwise reported.

Additional own funds requirement.

62.(1) The Commission shall impose the additional own funds requirement referred to in paragraph (a) of section 61(1) where, on the basis of the reviews carried out in accordance with sections 55 and 59, it determines any of the following situations for an individual CIF:

Official Journal of the EU: L347, 28.12.2017, p.35.

(a) the CIF is exposed to risks or elements of risk that are not covered or not sufficiently covered, as specified in subsection (2) by the own funds requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402;

(b) the CIF does not meet the requirements set out in section 34 and 35 or in Article 393 of Regulation (EU) No 575/2013 and it is unlikely that other supervisory measures would be sufficient to ensure that those requirements can be met within an appropriate timeframe;

(c) the adjustments referred to in section 56(7) are deemed to be insufficient to enable the CIF to sell or hedge out its positions within a short period without incurring material losses under normal market conditions;

(d) the evaluation carried out in accordance with paragraphs (a) to (c) of section 59(4) reveals that the non-compliance with the requirements for the application of the permitted approach shall likely lead to inadequate own funds requirements;

(e) the CIF repeatedly fails to establish or maintain an adequate level of additional own funds to cover the guidance communicated in accordance with section 63(4) and (5);

(f) other CIF-specific situations deemed by the Commission to raise material supervisory concerns.

(2) The Commission shall impose the additional own funds requirement referred to in paragraph (a) of section 61(1) to cover the risks incurred by individual CIFs due to their activities, including those reflecting the impact of certain economic and market developments on the risk profile of an individual CIF.

(3) For the purposes of paragraph (a) of subsection (1), risks or elements of risk shall only be considered as not covered or not sufficiently covered by the own funds requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402 where the amounts, types and distribution of capital considered adequate by the Commission, taking into account the supervisory review of the assessment carried out by the CIF in accordance with section 34(1), are higher than the own funds requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402.

(4) For the purposes of subsection (3), the Commission shall assess, taking into account the risk profile of each individual CIF, the risks to which the CIF is exposed, including:

(a) CIF-specific risks or elements of such risks that are explicitly

excluded from or not explicitly addressed by the own funds requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402;

(b) CIF-specific risks or elements of such risks likely to be underestimated despite compliance with the applicable requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402.

(5) To the extent that risks or elements of risk are subject to transitional arrangements or grandfathering provisions laid down in this Law or in Regulation (EU) No 575/2013, they shall not be considered risks or elements of such risks likely to be underestimated despite compliance with the applicable requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402.

(6) For the purposes of subsection (3), the capital considered adequate shall cover all risks or elements of risks identified as material pursuant to the assessment laid down in subsection (4) that are not covered or not sufficiently covered by the own funds requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402.

(7) Interest rate risk arising from non-trading book positions may be considered material at least in the cases referred to in sections 56(8) and (9), unless the Commission, in performing the review and evaluation, comes to the conclusion that the CIF's management of interest rate risk arising from non-trading book activities is adequate and that the CIF is not excessively exposed to interest rate risk arising from non-trading book activities.

(8) Where additional own funds are required to address risks other than the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of Regulation (EU) No 575/2013, the Commission shall determine the level of the additional own funds required under paragraph (a) of subsection (1) as the difference between the capital considered adequate pursuant to subsections (3) to (7) of this section and the relevant own funds requirements set out in Parts Three and Four of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402.

(9) Where additional own funds are required to address the risk of excessive leverage not sufficiently covered by paragraph (d) of Article 92(1) of Regulation (EU) No 575/2013, the Commission shall determine the level of the additional own funds required under paragraph (a) of subsection (1) of this section as the difference between the capital considered adequate pursuant to subsections (3) to (7) of this section and the relevant own funds requirements set out in Parts Three and Seven of Regulation (EU) No 575/2013.

(10) The CIF shall meet the additional own funds requirement imposed by the Commission under paragraph (a) of section 61(1) to address risks other

than the risk of excessive leverage with own funds that satisfy the following conditions:

(a) at least three quarters of the additional own funds requirement shall be met with Tier 1 capital;

(b) at least three quarters of the Tier 1 capital referred to in paragraph (a) shall be composed of Common Equity Tier 1 capital;

It is provided that the CIF meets the additional own funds requirement imposed by the Commission under paragraph (a) of section 61(1) to address excessive leverage risks with Tier 1 capital:

(11) By way of derogation from subsection (10), the Commission may require the CIF to meet its additional own funds requirement with a higher portion of Tier 1 capital or Common Equity Tier 1 capital, where necessary, and having regard to the specific circumstances of the CIF.

(12) Own funds that are used to meet the additional own funds requirement referred to in paragraph (a) of section 61(1) imposed by the Commission to address risks other than the risk of excessive leverage shall not be used to meet any of the following:

(a) own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013;

(b) the combined buffer requirement;

(c) the guidance on additional own funds referred to in section 63(4) and (5) where that guidance addresses risks other than the risk of excessive leverage.

(13) Own funds that are used to meet the additional own funds requirement referred to in point (a) of Article 61(1) of this Law imposed by the Commission to address the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of Regulation (EU) No 575/2013 shall not be used to meet any of the following:

(a) the own funds requirement set out in point (d) of Article 92(1) of Regulation (EU) No 575/2013;

(b) the leverage ratio buffer requirement referred to in point (a) of Article 92(1) of Regulation (EU) No 575/2013;

(c) the guidance on additional own funds referred to in section 63(4) and (5), where that guidance addresses risks of excessive leverage.

(14) The Commission shall duly justify in writing to each institution the

decision to impose an additional own funds requirement under point (a) of section 61(1), at least by giving a clear account of the full assessment of the elements referred to in subsections (1) to (13).

(15) The justification referred to in subsection (14) shall include, in the case set out in point (e) of clause (1), a specific statement of the reasons for which the imposition of guidance on additional own funds is no longer considered sufficient.

Guidance on additional own funds.

63.-(1) Pursuant to the strategies and processes referred to in section 34, the CIF shall set their internal capital at an adequate level of own funds that is sufficient to cover all the risks that a CIF is exposed to and to ensure that the CIF's own funds can absorb potential losses resulting from stress scenarios, including those identified under the supervisory stress test referred to in section 58.

(2) The Commission shall regularly review the level of the internal capital set by each CIF in accordance with subsection (1) as part of the reviews and evaluations performed in accordance with sections 55 and 59, including the results of the stress tests referred to in section 58.

(3) Pursuant to the review of subsection (2), the Commission shall determine for each CIF the overall level of own funds they consider appropriate.

(4) The Commission shall communicate their guidance on additional own funds, to CIFs.

(5) The guidance on additional own funds shall be the own funds exceeding the relevant amount of own funds required pursuant to Parts Three, Four and Seven of Regulation (EU) No 575/2013, Chapter 2 of Regulation (EU) 2017/2402, paragraph (a) of section 61(1) and the definition of the term "combined buffer requirement" of section 2(1) of the Macroprudential Oversight of Institutions Law or pursuant to Article 92(1a) of Regulation (EU) No 575/2013, as relevant, which are needed to reach the overall level of own funds considered appropriate by the Commission pursuant to subsections (2) and (3).

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(6) The Commission's guidance on additional own funds pursuant to clauses (4) and (5) shall be CIF-specific. The guidance may cover risks addressed by the additional own funds requirement imposed pursuant to paragraph (a) of section 61(1) only to the extent that it covers aspects of those risks that are not already covered under that requirement.

(7) Own funds that are used to meet the guidance on additional own funds communicated in accordance with subsections (4) and (5) to address risks other than the risk of excessive leverage shall not be used to meet any of the following:

(a) the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013;

(b) the requirement laid down in section 62 imposed by the Commission to address risks other than the risk of excessive leverage and the combined buffer requirement.

(8) Own funds that are used to meet the guidance on additional own funds communicated in accordance with subsection (4) to address the risk of excessive leverage shall not be used to meet the own funds requirement set out in point (d) of Article 92(1) of Regulation (EU) No 575/2013, the requirement laid down in section 62 imposed by the Commission to address the risk of excessive leverage and the leverage ratio buffer requirement referred to in point (a) of Article 92(1) of Regulation (EU) No 575/2013.

(9) Failure to meet the guidance referred to in subsections (4) and (5) where a CIF meets the relevant own funds requirements set out in Parts Three, Four and Seven of Regulation (EU) No 575/2013 and in Chapter 2 of Regulation (EU) 2017/2402, the relevant additional own funds requirement referred to in paragraph (a) of section 61(1) and, as relevant, the combined buffer requirement or the leverage ratio buffer requirement referred to in Article 92(1a) of Regulation (EU) No 575/2013 shall not trigger the restrictions referred to in sections 90 and 92.

Cooperation with the resolution authority.

64. The Commission shall notify the relevant resolution authority of the additional own funds requirement imposed on CIFs pursuant to paragraph (a) of section 61(1) and of any guidance on additional own funds communicated to CIFs in accordance with section 63(4).

Specific liquidity requirements.

65.-(1) For the purposes of determining the appropriate level of liquidity requirements on the basis of the review and evaluation carried out in accordance with sections 55 to 59, 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 sections 9 and 10 of the Investment Services and Activities and Regulated Markets Law, in Articles 35 to 54 and in particular in section 47;

(c) the outcome of the review and evaluation carried out in accordance with section 55.

(2) In particular, without prejudice to section 29, the Commission shall 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 with a directive of the Commission or with Union legislation.

Specific publication requirements.

66.-(1) The Commission may require CIFs:

(a) to publish information referred to in Part Eight of Regulation (EU) No 575/2013 more than once per year, and to set deadlines for publication;

(b) to use specific media and locations for publications other than the financial statements.

(2) The Commission shall be empowered to require the parent undertaking to publish annually, either in full or by way of references to equivalent information, a description of its legal structure and governance and organisational structure of the group of CIFs in accordance with section 35(1) and (2) and section 69(2) to (5).

Consistency of supervisory reviews, evaluations and supervisory measures.

67. The Commission shall inform EBA of:

(a). the functioning of their review and evaluation process referred to in section 55;

(b). the methodology used to base decisions referred to in sections 56, 58, 59, 60, 61 and 65 on the process referred to in paragraph (a).

Level of application

Internal capital adequacy assessment process.

68.-(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 34 on an individual basis.

(2) 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 34 shall apply on an individual basis.

(3) A CIF established in the Republic that is a parent undertaking 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 shall meet the obligations set out in section 34 on a consolidated basis.

(4) Subsidiary CIFs shall apply the requirements of section 34 on a sub-consolidated basis if the said CIFs or the parent undertaking, when it is a financial holding company or a mixed financial holding company, have as their subsidiary undertaking in a third country or have a shareholding in an institution or a financial institution or management company, as set out in paragraph 2(1) of Directive DI144-2007-16 of 2015.

CIF

69.-(1) The Commission shall require CIFs to meet the obligations set out in

arrangements, processes and mechanisms.

sections 35 to 54 on an individual basis, unless the Commission makes use of the derogation provided for in Article 7 of Regulation (EU) No 575/2013.

(2) The Commission shall require the parent undertakings and subsidiaries subject to this Law to meet the obligations set out in section 35 to 54 on a consolidated or sub-consolidated basis, to ensure that their arrangements, processes and mechanisms required by sections 35 to 54 are consistent and well-integrated and that any data and information relevant to the purpose of supervision can be produced.

(3) The Commission shall require the parent undertakings and subsidiaries subject to this Law to implement the arrangements, processes and mechanisms referred to in subsection (2), in their subsidiaries not subject to this Law or to the legislative provision of the Republic or of another Member State, including those established in offshore financial centres, harmonizing Directive 2013/36/EU.

(4) The arrangements, processes and mechanisms referred to in subsection s (1) and (2) shall also be consistent and well-integrated and the subsidiaries referred to last in subsection (3) shall also be able to produce any data and information relevant to the purpose of supervision.

(5) Subsidiary undertakings not subject to this Law or to any other legislative provision in the Republic harmonizing Directive 2013/36/EU, shall comply with the sector-specific requirements on an individual basis.

(6) Obligations resulting from sections 35 to 54 concerning subsidiary undertakings that are not themselves subject to this Law or to any other legislative provision in the Republic harmonizing Directive 2013/36/EU, shall not apply if the EU parent institution can demonstrate to the Commission that the application of sections 35 to 54 is unlawful under the laws of the country where the subsidiary is established.

(7) The remuneration requirements laid down in sections 51, 52 and 53 shall not apply on a consolidated basis to the following:

(a) subsidiary undertakings established in the Union where they are subject to specific remuneration requirements in accordance with other Union legal acts other than Directive 2013/36/EU;

(b) subsidiary undertakings established in a third country where they would be subject to specific remuneration requirements in accordance with other Union legal acts other than Directive 2013/36/EU, if they were established in the Union.

(8) By way of derogation from subsection (7), and in order to avoid circumvention of the rules set out in sections 51, 52 and 53, the CIF shall apply the requirements laid down in sections 51, 52 and 53 to members of staff of

subsidiaries that are not subject to this Law or to any other legislative provision of the Republic harmonizing Directive 2013/36/EU on an individual basis where:

(a) the subsidiary is either an asset management company, or an undertaking that provides the investment services and activities listed in points (2), (3), (4), (6) and (7) of Section A of Annex I to Directive 2014/65/EU; and

(b) the members of staff have been mandated to perform professional activities that have a direct material impact on the risk profile or the business of the CIFs within the group.

(9) Notwithstanding the provisions of subsections (7) and (8), the Commission may apply sections 51, 52 and 53 on a consolidated basis to a broader scope of subsidiary undertakings and their staff.

Review and evaluation and supervisory measures.

70.-(1) The Commission shall apply the review and evaluation process referred to in sections 55 to 59 and the supervisory measures referred to in sections 60 to 37 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 section 15 of Regulation (EU) No 575/2013, the requirements of section 55 shall apply to the supervision of CIFs on an individual basis.

Supervision on a consolidated basis
Principles for conducting supervision on a consolidated basis

Determination of the consolidating supervisor.

71.-(1) Where a parent undertaking is a parent institution established in the Republic, supervision on a consolidated basis shall be exercised by the Central Bank.

(2) Where a parent undertaking is an EU parent credit institution, supervision on a consolidated basis shall be exercised by the Central Bank where it is the competent authority for the said EU parent credit institution on an individual basis.

(3) Where a parent undertaking is a parent CIF and none of its subsidiaries is a credit institution, supervision on a consolidated basis shall be exercised by the Commission.

(4) Where a parent undertaking is an EU parent investment firm, and none of its subsidiaries is a credit institution, supervision on a consolidated basis shall be exercised by the Commission, where it is the competent authority for the said EU investment firm on an individual basis.

(5) Where a parent undertaking is a parent CIF or an EU parent investment firm, and at least one of its subsidiaries is a credit institution, supervision on a

consolidated basis shall be exercised by the Central Bank where it is the competent authority of the said credit institution, or where there are several credit institutions, if it is the competent authority of the credit institution with the largest balance sheet total.

(6) Where the parent of an institution is a parent financial holding company established in the Republic or a parent mixed financial holding company established in the Republic, supervision on a consolidated basis shall be exercised by the Commission, while where the parent of an institution is an EU parent financial holding company or an EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the Commission where it is the competent authority that supervises the said institution on an individual basis.

(7) Where two (2) or more investment firms authorised in the Union have the same parent financial holding company in a Member State, parent mixed financial holding company in a Member State, EU parent financial holding company or EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the Commission where it is the competent authority of the CIF with the largest balance sheet total and the group does not include any credit institution.

(8) Where consolidation is required pursuant to Article 18(3) or (6) of Regulation (EU) No 575/2013, supervision on a consolidated basis shall be exercised by the Commission where the group does not include any credit institution and where it is the competent authority of the CIF with the largest balance sheet total.

(9) By way of derogation from the provisions of subsection (7), where the Commission supervises on an individual basis more than one CIFs within a group, the consolidating supervisor shall be the competent authority that supervises on an individual basis one or more CIFs within the group with the highest balance sheet in aggregate.

(10) In particular cases, the Commission may waive by common agreement with the other competent authorities, the criteria referred to in subsections (1) to (5), (7) and (8) and appoint a different competent authority to exercise supervision on a consolidated basis where the application of the criteria referred to therein would be inappropriate, taking into account the institutions concerned and the relative importance of their activities in the relevant Member States, or the need to ensure the continuity of supervision on a consolidated basis by the said competent authority.

(11) In the cases referred to in subsection (10), the Commission shall give the right to be heard, as applicable, to the EU parent institution, EU parent financial holding company, EU parent mixed financial holding company or the institution with the largest balance sheet total.

(12) The Commission, as consolidating supervisor, shall notify the European

Commission and EBA without delay of any agreement falling within subsections (10) and (11).

Coordination of supervisory activities by the Commission as consolidating supervisor.

72.-(1) In addition to the obligations imposed by this Law and by the directives issued pursuant to this Law and by Regulation (EU) No 575/2013, the Commission, where it acts as 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 sections 71 to 89, 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 investment firms or in financial markets using, where possible, existing channels of communication for facilitating crisis management.

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

(3) The Commission may request assistance by EBA in the event of a disagreement concerning the coordination of supervisory activities under this section on its own initiative in accordance with the second clause of Article 19(1) of Regulation (EU) No 1093/2010.

(4) The planning and coordination of supervisory activities referred to in paragraph 1(c) includes exceptional measures referred to in section 77(2)(d) and section 77(5)(b), the preparation of joint assessments, the implementation of contingency plans and communication to the public.

Joint decisions on CIF-specific prudential requirements.

73.-(1) The Commission, either as consolidating supervisor or as competent authority responsible for the supervision of a CIF that is a subsidiary of an EU parent institution or an EU parent financial holding company or an EU parent mixed financial holding company shall do everything within its power to reach a joint decision with the competent authorities involved:

(a) on the application of sections 34 and 55 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 (a) of section 61(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 section 47 and relating to the need for institution-specific liquidity requirements in accordance with section 65;

(c) on any guidance on additional own funds referred to in section 63(4) and (5).

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

(a) for the purposes of paragraph (a) of subsection (1), within four (4) months of submission by the consolidating supervisor of a report containing the risk assessment of the group of institutions in accordance with section 62 to the other relevant competent authorities;

(b) for the purposes of paragraph (b) of subsection (1), within four (4) months of submission by the consolidating supervisor to the other competent authorities of a report containing the assessment of the liquidity risk profile of the group of institutions in accordance with section 47 and 65;

(c) for the purposes of paragraph (c) of subsection (1), within four (4) months of submission by the consolidating supervisor of a report containing the risk assessment of the group of institutions in accordance with section 63.

(3) The joint decisions referred to in subsection (1) shall also duly consider the risk assessment of subsidiaries performed by relevant competent authorities in accordance with sections 34, 55, 62 and 63.

(4) The joint decisions referred to in paragraphs (a) and (b) of subsection (1) shall be set out in documents containing full reasons which shall be provided to the EU parent institution by the Commission as consolidating supervisor.

(5) In the event of disagreement, the Commission, as consolidating supervisor, shall at the request of any of the other competent authorities concerned consult EBA.

(6) The Commission, as consolidating supervisor, may also consult EBA on its own initiative.

(7) In the absence of such a joint decision between the competent authorities within the time periods referred to in subsection (2), a decision on the application of sections 34, 47 and 55 and paragraph (a) of section 61(1) and sections 63 and 65 shall be taken on a consolidated basis by the consolidating supervisor after duly considering the risk assessment of subsidiaries performed by relevant competent authorities.

(8) If, at the end of the time periods referred to in subsection (2), any of the competent authorities concerned has referred the matter to EBA in accordance with section 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.

(9) The time periods referred to in subsection (2) shall be deemed the conciliation periods within the meaning of Regulation (EU) No 1093/2010.

(10) The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached.

(11) The decision on the application of sections 34, 47, 55 and paragraph (a) of section 61(1) and sections 63 and 65 shall be taken by the respective competent authorities responsible for supervision of subsidiaries of an EU parent credit institution or 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 consolidating supervisor.

(12) If, at the end of any of the time periods referred to in subsection (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 shall defer its decision and await any decision that EBA shall take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA.

(13) The time periods referred to in subsection (2) shall be deemed the conciliation periods within the meaning of Regulation (EU) No 1093/2010.

(14) The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached.

(15) 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 subsection (2). The document shall be provided by the Commission, as consolidating supervisor, to all competent authorities concerned and to the EU parent institution.

(16) Where EBA has been consulted, the Commission shall consider its advice, and explain any significant deviation therefrom.

(17) The joint decisions referred to in subsection (1) and the decisions taken by the competent authorities in the absence of a joint decision referred to in subsections (7) to (16) shall be recognised as determinative and applied by the Commission.

(18) The joint decisions referred to in subsection (1) and any decision taken in the absence of a joint decision in accordance with subsections (7) to (16), 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, EU parent financial holding company or EU parent mixed financial holding company makes a written and fully reasoned request to the Commission, as consolidating supervisor, to update the decision on the application of paragraph (a) of section 61(1) and sections 63 and 65.

(19) In the exceptional circumstances referred to in subsection (18), the update may be addressed on a bilateral basis between the Commission, as consolidating supervisor, and the competent authority making the request.

Information requirements in emergency situations.

74.(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 12 are established, the Commission, as consolidating supervisor, shall, subject to sections 14 to 24 of this Law and sections 77 and 82 of the Investment Services and Activities and Regulated Markets Law, where applicable, alert as soon as is practicable, EBA and the authorities referred to in paragraphs (a) and (b) of section 19(5) and section 21, including the corresponding authorities of the Member States involved, and shall communicate all information essential for the pursuance of their tasks.

(2) Where possible, the Commission shall use existing channels of communication.

(3) The Commission, as consolidating supervisor, 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.

75.-(1) In order to facilitate and establish effective supervision, the Commission, charged with the exercise of supervision on a consolidated basis, and the other competent authorities shall have written coordination and cooperation arrangements in place.

(2) Under the arrangements provided for in subsection (1), additional tasks may be entrusted to the Commission, as consolidating supervisor, and

procedures for the decision-making process and for cooperation with other competent authorities, may be specified.

(3) The Commission as responsible for authorising the subsidiary of a parent undertaking which is an investment firm 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 the provisions of the relevant legislation in the Member States of these competent authorities, through which the provisions of Directive 2013/36/EU were adopted.

(4) The Commission shall inform EBA of the existence and content of the agreements provided for in subsection (3).

(5) Where the Commission is the consolidating supervisor but it is not the competent authority in the Member State where a financial holding company or mixed financial holding company that has been granted approval in accordance with the legislatives provisions of a Member State harmonizing Article 21(a) of Directive (EU) 2019/878 is established, the coordination and cooperation arrangements referred to in subsection (1) shall also be concluded with the competent authority of the Member State where the parent undertaking is established.

College of supervisors.

76.-(1) The Commission, as consolidating supervisor, shall establish a college of supervisors to facilitate the exercise of the tasks referred to in sections 72 and 73 and section 74(1) and subject to the confidentiality requirements of subsection (4) and to Union law, ensure appropriate coordination and cooperation with relevant third-country supervisory authorities, where appropriate.

(2) Colleges of supervisors shall provide a framework for the Commission (as consolidating supervisor), 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 section 57 based on a risk assessment of the group in accordance with section 55;

(d) increasing the efficiency of supervision by removing unnecessary duplication of supervisory requirements, including in relation to the information requests referred to in section 74 and section 77(4);

(e) consistently applying the prudential requirements under this Law and the directives issued pursuant to this Law and under Regulation (EU) No 575/2013 across all entities within a group of institutions without prejudice to the options and discretions available in European Union law;

(f) applying paragraph (c) of section 72(1) taking into account the work of other forums that may be established in that area.

(3) To facilitate the tasks referred to in paragraphs (a) to (c) of section 72(1), 74(1) and (2) and 75(a) and (2), the Commission, as consolidating supervisor, shall also establish colleges of supervisors where all the cross-border subsidiaries of an EU parent institution, an EU parent financial holding company or an EU parent mixed financial holding company have their head offices in third countries, provided that the third countries' supervisory authorities are subject to confidentiality requirements that are equivalent to the requirements laid down in Section II of Chapter 1 of Directive 2013/36/EU and, where applicable, in sections 14 to 24 of this Law and, where applicable, in sections 76 and 81 of Directive 2014/65/EU.

(4)(a) The Commission shall cooperate closely with EBA and other competent authorities participating in the college of supervisors.

(b) The confidentiality requirements under sections 14 to 24 of this Law and sections 77 and 82 of the Investment Services and Activities and Regulated Markets Law shall not prevent the exchange of confidential information between the Commission, EBA and the other competent within colleges of supervisors.

(c) The establishment and functioning of colleges of supervisors shall not affect the rights and responsibilities of the Commission under this Law and under the directives issued pursuant to this Law and under Regulation (EU) No 575/2013 as well as the rights and responsibilities of the competent authorities under the provisions of the relevant legislation in the Member States of these competent authorities through which the provisions of Directive 2013/36/EU were adopted and under Regulation (EU) No 575/2013.

(5) The establishment and functioning of the colleges shall be based on written arrangements referred to in section 75, determined after consulting competent authorities concerned by the Commission as consolidating supervisor.

(6) 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 12 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 of sections 14 to 24 of this Law and where applicable, sections

77 and 82 of the Investment Services and Activities and Regulated Markets Law, may participate in colleges of supervisors.

(7) The Commission, as competent authority in the Member State where a financial holding company or a mixed financial holding company that has been granted approval in accordance with section 79 is established, may participate in the relevant college of supervisors.

(8)(a) The Commission, as 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.

(b) The Commission, as consolidating supervisor, shall keep all members of the college fully informed, in advance, of the organisation of the meetings referred to in paragraph (a), the main issues to be discussed and the activities to be considered as well as 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.

(9) The decision of the Commission, as consolidating supervisor, 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 as referred to in section 6 and the obligations imposed by sub-paragraphs (i) to (iv) of paragraph (a) of section12(2).

(10) The Commission, as consolidating supervisor, subject to the confidentiality requirements under section s 14 to 24 of this Law, and where applicable, section s 77 and 82 of the Investment Services and Activities and Regulated Markets 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.

(11) 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.

77.-(1)(a) The Commission shall cooperate closely with the other competent authorities and shall provide them, on its own initiative, with all information which is essential and on request, with all relevant information for the exercise of the other authorities' supervisory tasks under the provisions of the relevant legislation in the Member States of these competent authorities through which the provisions of Directive 2013/36/EU and Regulation (EU) No 575/2013 were adopted.

(b) The Commission may receive from the other competent authorities, on their own initiative, all information which is essential and on request, all relevant

information for the exercise of the other authorities' supervisory tasks under the provisions of this Law and of the directives issued pursuant to this Law and Regulation (EU) No 575/2013.

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

(d) The Commission shall provide EBA with all information necessary to carry out its duties under Directive 2013/36/EU, under Regulation (EU) No 575/2013, and under Regulation (EU) No 1093/2010, in accordance with Article 35 of Regulation (EU) No 1093/2010.

(e) Information referred to in paragraphs (a) and (b) shall be regarded as essential if it could materially influence the assessment of the financial soundness of an investment firm or financial institution in another Member State.

(f) The Commission, as consolidating supervisor 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.

(g) 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.

(2) The essential information referred to in paragraph (a) of subsection (1) 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 35(1) and (2) and section 69(2) to (5), 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 legal entities of a group, which could seriously affect the institutions;

(d) significant penalties and exceptional measures taken by competent authorities in accordance with legislative provisions of relevant Member States harmonising Directive 2013/36/EU, and/or with this Law, including the imposition of a specific own fund requirement under section 61 and the imposition of any limitation on the use of the

Advanced Measurement Approach for the calculation of the own funds requirements under section 312(2) of Regulation (EU) No 575/2013.

(3) 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.

(4) The Commission 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 methodologies set out in this Law and in the directives issued pursuant to this Law and in Regulation (EU) No 575/2013 that may already be available to the consolidating supervisor.

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

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

(b) significant penalties and exceptional measures taken by competent authorities, including the imposition of a specific own funds requirement under the legislative provisions of relevant Member States harmonizing Directive 2013/36/EU and the imposition of any limitation on the use of the Advances Measurement Approaches for the calculation of the own funds requirements under section 312(2) of Regulation (EU) No 575/2013.

(6) For the purposes of paragraph (b), the Commission as competent authority of a host Member State shall always consult the consolidating supervisor.

(7) 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.

(8) In the cases provided for in subsection (7), the Commission shall, without delay, inform the other competent authorities after taking its decision.

(9) The Commission, as competent authority of the Republic for the exercise of the duties and responsibilities provided for in this Law and in the directives issued pursuant to this Law and as the supervisory authority of investments

firms under section 59 of the Prevention and Suppression of Money Laundering and Terrorist Financing Law, and MOKAS, as the financial intelligence unit of the Republic, in terms of the compliance with this Law and with the directives issued pursuant to this Law, shall cooperate closely with the respective authorities of another Member State within their respective competences and shall provide each other with information relevant for their respective tasks under this Law and under the directives issued pursuant to this Law, under Regulation (EU) No 575/2013 and under the Prevention and Suppression of Money Laundering and Terrorist Financing Law, provided that such cooperation and information exchange do not impinge on an ongoing inquiry, investigation or proceedings in accordance with the Cyprus criminal or administrative law or the criminal or administrative law of the Member State where the competent authorities are located.

Checking information concerning entities in other Member States.

78.-(1)(a) Where, in applying this Law and the directives issued pursuant to this Law and Regulation (EU) No 575/2013, the Commission wishes in specific cases to check the information concerning an investment firm, a financial holding company, a mixed financial holding company, a financial institution, an ancillary banking services undertaking, a mixed-activity holding company or a subsidiary as referred to in section 87 or a subsidiary as referred to in section 81(3) and (4), situated in another Member State, it shall ask the competent authorities of that other Member State to have that check carried out.

(b) The authorities which receive the request referred to in paragraph (a) 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 the Commission to carry out the check or by allowing an auditor or expert to carry it out.

(c) The Commission may, if it so wishes, participate in the check where it does not carry out the check itself.

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

Approval of financial holding companies and mixed financial holding companies.

79.-(1) Parent financial holding companies in the Republic, parent mixed financial holding companies in the Republic, EU parent financial holding companies and EU parent mixed financial holding companies shall seek approval in accordance with this section while other financial holding companies or mixed financial holding companies shall seek approval in accordance with this section where they are required to comply with this Law and with the directives issued pursuant to this Law or with Regulation (EU) No 575/2013 on a sub-consolidated basis.

(2) For the purposes of subsection (1), financial holding companies and mixed financial holding companies referred to therein shall provide the Commission, where it is the consolidating supervisor or the competent authority in the Member State where they are established with the following information:

(a) the structural organisation of the group of which the financial holding company or the mixed financial holding company is part, with a clear indication of its subsidiaries and, where applicable, parent undertakings, and the location and type of activity undertaken by each of the entities within the group;

(b) information regarding the nomination of at least two (2) persons effectively directing the financial holding company or mixed financial holding company and compliance with the requirements set out in section 83 on qualification of directors;

(c) information regarding compliance with the criteria set out in paragraphs (c) to (g) of section 4(1) of the Business of Credit Institutions Law concerning shareholders and members, where the financial holding company or mixed financial holding company has a credit institution as its subsidiary;

(d) the internal organisation and distribution of tasks within the group;

(e) any other information that may be necessary to carry out the assessments referred to in subsections (4), (5) and (6).

(3) Where the approval of a financial holding company or mixed financial holding company takes place concurrently with the assessment referred to in section 17 of the Business of Credit Institutions Law, the competent authority for the purposes of that section shall coordinate, as appropriate, with the Commission, where it acts as consolidating supervisor or is the competent authority in the Member State where the financial holding company or mixed financial holding company is established and, in that case, the assessment period referred to in paragraph (a) of section 17(2) of the Business of Credit Institutions Law shall be suspended for a period exceeding twenty working days until the procedure set out in this section is complete.

(4) The Commission, as consolidating supervisor or as the competent authority of the Member State of establishment, may grant approval to a financial holding company or mixed financial holding company pursuant to this section only where all of the following conditions are fulfilled:

(a) the internal arrangements and distribution of tasks within the group are adequate for the purpose of complying with the requirements imposed by this Law and by the directives issued pursuant to this Law and by Regulation (EU) No 575/2013 on a consolidated or sub-consolidated basis and, in particular, are effective to:

(i). coordinate all the subsidiaries of the financial holding company or mixed financial holding company including, where necessary, through an adequate distribution of tasks among subsidiary institutions;

(ii). prevent or manage intra-group conflicts; and

(iii). enforce the group-wide policies set by the parent financial holding company or parent mixed financial holding company throughout the group;

(b) the structural organisation of the group of which the financial holding company or mixed financial holding company is part does not obstruct or otherwise prevent the effective supervision of the subsidiary institutions or parent institutions as concerns the individual, consolidated and, where appropriate, sub-consolidated obligations to which they are subject. For the assessment of that criterion, the Commission shall take into account, in particular:

(i). the position of the financial holding company or mixed financial holding company in a multi-layered group;

(ii). the shareholding structure; and

(iii). the role of the financial holding company or mixed financial holding company within the group;

(c) the criteria set out in paragraphs (c) to (g) of section 4(1) of the Business of Credit Institutions Law and the requirements laid down in section 83 are complied with.

(5) Approval of the financial holding company or mixed financial holding company under this section shall not be required where all of the following conditions are met:

(a) the financial holding company's principal activity is to acquire holdings in subsidiaries or, in the case of a mixed financial holding company, its principal activity with respect to institutions or financial institutions is to acquire holdings in subsidiaries;

(b) the financial holding company or mixed financial holding company has not been designated as a resolution entity in any of the group's resolution groups in accordance with the resolution strategy determined by the relevant resolution authority pursuant to the Resolution of Credit Institutions and Investment Companies Law or under legislative provisions harmonizing Directive 2014/59/EU;

(c) a subsidiary credit institution is designated as responsible to ensure the group's compliance with prudential requirements on a consolidated basis and is given all the necessary means and legal authority to discharge those obligations in an effective manner;

(d) the financial holding company or mixed financial holding company does not engage in taking management, operational or financial decisions affecting the group or its subsidiaries that are institutions or financial institutions;

(e) there is no impediment to the effective supervision of the group on a consolidated basis.

(6) Financial holding companies or mixed financial holding companies exempted from approval in accordance with subsection (5) shall not be excluded from the perimeter of consolidation as laid down in this Law and in the directives issued pursuant to this Law, in Directive 2013/36/EU and in Regulation (EU) No 575/2013.

(7) The Commission, where it is consolidating supervisor, shall monitor compliance with the conditions referred to in subsection (4) or, where applicable, subsections (5) and (6) on an ongoing basis. Financial holding companies or mixed financial holding companies shall provide the Commission, where it is consolidating supervisor, with the information required to monitor on an ongoing basis the structural organisation of the group and compliance with the conditions referred to in subsection (4) or, where applicable, subsections (5) and (6). The Commission, as consolidating supervisor, shall share that information with the competent authority in the Member State where the financial holding company or the mixed financial holding company is established.

(8) Where the Commission, where it is consolidating supervisor, has established that the conditions set out in subsection (4) are not met or have ceased to be met, the financial holding company or mixed financial holding company shall be subject to appropriate supervisory measures to ensure or restore, as the case may be, continuity and integrity of consolidated supervision and ensuring compliance with the requirements laid down in this Law and in the directives issued pursuant to this Law and in Regulation (EU) No 575/2013 on a consolidated basis while in the case of a mixed financial holding company, the supervisory measures shall, in particular, take into account the effects on the financial conglomerate.

(9) The supervisory measures referred to in subsection (8) may include:

(a) suspending the exercise of voting rights attached to the shares of the subsidiary institutions held by the financial holding company or mixed financial holding company;

(b) issuing injunctions or penalties against the financial holding company, the mixed financial holding company or the members of the board of directors and managers, subject to sections 28 to 33 and 98;

(c) giving instructions or directions to the financial holding company or mixed financial holding company to transfer to its shareholders the participations in its subsidiary institutions;

(d) designating on a temporary basis another financial holding company, mixed financial holding company or institution within the group as responsible for ensuring compliance with the requirements laid down in this Law and in the directives issued pursuant to this Law and in Regulation (EU) No 575/2013 on a consolidated basis;

(e) restricting or prohibiting profit distributions or interest payments to shareholders;

(f) requiring financial holding companies or mixed financial holding companies to divest from or reduce holdings in institutions or other financial sector entities;

(g) requiring financial holding companies or mixed financial holding companies to submit a plan on return, without delay, to compliance.

(10) Where the Commission, as consolidating supervisor, has established that the conditions set out in subsections (5) and (6) are no longer met, the financial holding company or mixed financial holding company shall seek approval in accordance with this section.

(11) For the purpose of taking decisions on the approval and exemption from approval referred to in subsections (4), (5) and (6), respectively, and the supervisory measures referred to in subsections (8), (9) and (10), where the consolidating supervisor is different from the competent authority in the Member State where the financial holding company or the mixed financial holding company is established, the Commission shall comply with Article 21(a), paragraph 8 of Directive 2013/36/EU where it acts as consolidating supervisor or as competent authority in the Member State where the financial holding company or the mixed financial holding company is established.

(12) In the case of mixed financial holding companies, where the Commission as consolidating supervisor or as competent authority in the Member State where the mixed financial holding company is established is different from the coordinator determined in accordance with paragraph 12 of Directives DI 144-2007-16 of 2015 and DI 144-2007-16(A) of 2015 or in accordance with the legislative provisions of the other Member State harmonizing Article 10 of Directive 2002/87/EC, the agreement of the coordinator shall be required for the purposes of decisions or joint decisions referred to in subsections (4), (5), (6), (9) and (10) of this section, as applicable. Where the agreement of the coordinator is required, disagreements shall be referred to the relevant European Supervisory Authority, namely, EBA or the European Insurance and Occupational Pensions Authority (EIOPA). Any decision taken in accordance with this subsection shall be without prejudice to the obligations under either Directive DI 144-2007-16 of 2015 and DI 144-2007-

16(A) of 2015 or Directive 2002/87/EC or the Insurance and Reinsurance Services and Other Related Issues Law or Directive 2009/138/EC.

(13) Where approval of a financial holding company or mixed financial holding company pursuant to this section is refused, the Commission, as consolidating supervisor, shall notify the applicant of the decision and the reasons therefor within four months of receipt of the application, or where the application is incomplete, within four months of receipt of the complete information required for the decision. A decision to grant or refuse approval shall, in any event, be taken within six (6) months of receipt of the application. Refusal may be accompanied, where necessary, by any of the measures referred to in subsection (9).

Intermediate EU parent undertaking.

80.-(1). Two (2) or more investments firms in the European Union, which are part of the same third-country group, shall have a single intermediate EU parent undertaking that is established in the Union:

It is provided that the provisions of this subsection shall apply in case any of the aforementioned investment firms are established in the Republic.

(2) The Commission may allow investment firms referred to in subsection (1) to have two intermediate EU parent undertakings where they determine that the establishment of a single intermediate EU parent undertaking would:

(a) be incompatible with a mandatory requirement for separation of activities imposed by the rules or supervisory authorities of the third country where the ultimate parent undertaking of the third-country group has its head office; or

(b) render resolvability less efficient than in the case of two intermediate EU parent undertakings according to an assessment carried out by the competent resolution authority of the intermediate EU parent undertaking.

(3) An intermediate EU parent undertaking shall be:

(a) a credit institution authorised in accordance with section 4 of the Business of Credit Institutions Law, or in accordance with the legislative provisions of another Member State harmonizing section 8 of Directive 2013/36/EU; or

(b) a financial holding company or mixed financial holding company that has been granted approval either in accordance with section 79 of this Law or under the legislative provision of another Member State harmonizing section 29(a) of Directive 2013/36/EU.

(4) By way of derogation from the provisions of subsection (3), where none of the institutions referred to in subsection (1) is a credit institution or where a second intermediate EU parent undertaking must be set up in connection with

investment activities to comply with a mandatory requirement as referred to in subsection (2), the intermediate EU parent undertaking or the second intermediate EU parent undertaking, may be a CIF authorised in accordance with section 5 of the Investment Services and Activities and Regulated Markets Law that is subject to the Resolution of Credit Institutions and Investment Firms Law and the Recovery of CIFs and Other Entities under the Supervision of the Cyprus Securities and Exchange Commission and Other Related Matters Law or investment firms authorized in accordance with the legislative provisions of another Member State harmonizing Article 5(1) of Directive 2014/65/EU and is subject to the legislative provisions of another Member State harmonizing Directive 2014/59/EU.

(5) Subsections (1), (2), (3) and (4) shall not apply where the total value of assets in the Union of the third-country group is less than forty billion Euro (€40,000,000,000).

(6) For the purposes of this section, the total value of assets in the Union of the third-country group shall be the sum of the following:

(a) the total value of assets of each institution in the Union of the third country-group, as resulting from its consolidated balance sheet or as resulting from their individual balance sheet, where the institution's balance sheet is not consolidated;

(b) the total value of assets of each branch of the third-country group authorised in the Union in accordance with this Law and the directives issued pursuant to this Law, with the Investment Services and Activities and Regulated Markets Law, with the legislative provisions of another Member State harmonizing Directive 2014/65/EU or with Directive 2013/36/EU or Regulation (EU) No 600/2014.

(7) The Commission shall notify the following information in respect of each third-country group operating in their jurisdiction to EBA:

(a) the names and the total value of assets of supervised institutions belonging to a third-country group;

(b) the names and the total value of assets corresponding to branches authorised in that Member State in accordance with this Law, with the Investment Services and Activities and Regulated Markets Law or with Regulation (EU) No 600/2014, and the types of activities that they are authorised to carry out;

(c) the name and the type as referred to in subsections (3) and (4) of any intermediate EU parent undertaking set up in the Republic and the name of the third-country group of which it is part.

(8) The Commission shall ensure that each CIF under its jurisdiction that is part of a third-country group meets one of the following conditions:

(a) it has an intermediate EU parent undertaking;

(b) it is an intermediate EU parent undertaking;

(c) it is the only institution in the Union of the third-country group; or

(d) it is part of a third-country group with a total value of assets in the Union of less than forty billion Euro (€40,000,000,000).

(9) By way of derogation from subsection (1), third-country groups operating through more than one institution in the Union and with a total value of assets equal to or greater than forty billion Euro (€40,000,000,000) on 27 June 2019 shall have an intermediate EU parent undertaking or, if subsection (2) applies, two (2) intermediate EU parent undertakings by 30 December 2023.

Inclusion of holding companies in consolidated supervision.

81.-(1) Subject to section 79, the Commission shall adopt any measures necessary 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 their supervision of that subsidiary.

(3) The Commission, where it acts as consolidating supervisor, 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 section 84.

(4) In the case of subsection (3), the procedures for transmitting and checking the information set out in section 84 shall apply.

Supervision of mixed financial holding companies.

82.-(1) Where a mixed financial holding company is subject to equivalent provisions under this Law, under the directives issued pursuant to this Law and under Directives DI 144-2007-16 of 2015 and DI 144-2007-16(A) of 2015 and under Insurance and Reinsurance Services and Other Related Issues Law, in particular in terms of risk-based supervision, the Commission, as consolidating supervisor, may, after consulting the other competent authorities responsible for the supervision of subsidiaries, apply only Directives DI 144-2007-16 of 2015 and DI 144-2007-16(A) of 2015 and the Insurance and Reinsurance Services and Other Related Issues Law.

(2) Where a mixed financial holding company is subject to equivalent provisions under this Law, under the directives issued pursuant to this Law and under Directives DI 144-2007-16 of 2015 and DI 144-2007-16(A) of 2015 and under Insurance and Reinsurance Services and Other Related Issues Law, in particular in terms of risk-based supervision, the Commission, as consolidating

supervisor, may, in agreement with the group supervisor in the insurance sector, apply to that mixed financial holding company only the provisions of this Law and the directives issued pursuant to this Law relating to the most significant financial sector as defined in Article 3(2) of Directives DI 144-2007-16 of 2015 and DI 144-2007-16(A) of 2015.

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

Qualification of directors.

83. The members of the board of directors of a financial holding company or mixed financial holding company shall be of sufficiently good repute and possess sufficient knowledge, skills and experience as referred to in section 9 of the Investment Services and Activities and Regulated Markets 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.

84.-(1) Pending further coordination of consolidation methods, it shall be provided that, where the parent undertaking of one or more CIFs is a mixed-activity holding company, the Commission, responsible for authorisation shall, by approaching the mixed-activity holding company and its subsidiaries either directly or via subsidiaries that are CIFs, require them to supply any information which would be relevant for the purpose of supervising those subsidiaries.

(2)(a) 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.

(b) If the mixed-activity holding company or one of its subsidiaries is an insurance undertaking, the Commission may use the procedure set out in section 87.

(c) If a mixed-activity holding company or one of its subsidiaries is situated in a Member State other than that in which a subsidiary that is a CIF is situated, on-the-spot check of information shall be carried out in accordance with the procedure set out in section 78.

Supervision.

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

(2)(a) CIFs shall 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.

(b) CIFs shall report any significant transaction with the entities referred to in paragraph (a), other than the one referred to in Article 394 of Regulation (EU) No 575/2013.

(c) The procedures and significant transactions of subsection (2) shall be subject to overview by the Commission.

Exchange of information.

86.-(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 subsections (3) and (4) of section 81, of any information which would be relevant for the purposes of supervision in accordance with section 70 and sections 71 to 78 and 81 to 89.

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

(b) Where the parent undertaking is established in the Republic, but the Commission does not itself exercise supervision on a consolidated basis pursuant to section 71, it may be invited by the competent authority responsible for exercising such consolidated 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 the competent authority.

(3)(a)The exchange of the information referred to in subsection (2) between the Commission and the other competent authorities shall be authorized 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 the Commission is required to play a supervisory role in relation to those institutions or undertakings standing alone.

(b) The exchange of the information referred to in section 72 between the Commission and the other competent authorities shall be authorised on the understanding that the collection or possession of information does not imply that the Commission plays 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 subsections (3) and (4) of section 81.

Cooperation.

87.-(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.

(2) Without prejudice to their respective responsibilities, the authorities in subsection (1) 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.

(3) Where, pursuant to section 71, the Commission, as consolidating supervisor of a group with a parent mixed financial holding company, is different from the coordinator determined in accordance with paragraph 12 of Directive DI 144-2007-16 of 2015 and DI 144-2007-16(A) of 2015, the Commission, as consolidating supervisor, and the coordinator shall cooperate for the purpose of applying this Law and the directives issued pursuant to this Law and Regulation (EU) No 575/2013 on a consolidated basis and in order to facilitate and establish effective cooperation, the Commission, as consolidating supervisor, and the coordinator shall have written coordination and cooperation arrangements in place.

(4) Information received, within the framework of supervision on a consolidated basis, and in particular any exchange of information between the Commission and the other competent authorities which is provided for in this Law, shall be subject to professional secrecy requirements at least equivalent to those referred to in section 14 of this Law or under section 77 of the Investment Services and Activities and Regulated Markets Law.

(5) The Commission, where it is 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, which shall be communicated to the competent authorities of the other Member States, to EBA and to the European Commission.

Penalties.

88. In accordance with section 27 to 33 and 98, the Commission shall ensure that administrative penalties or other administrative measures aiming to end observed breaches or the causes of such breaches may be imposed on financial holding companies, mixed financial holding companies and mixed-activity holding companies, or their effective managers, that breach laws, regulations or provisions of section 71 to 89.

Assessment of equivalence of third countries' consolidated supervision.

89.-(1)(a) Where a CIF, the parent undertaking of which is an investment firm or a financial holding company or mixed financial holding company, the head office of which is in a third country and is not subject to consolidated supervision under sections 71, 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 provisions of this Law and the requirements of Part One, Title II, Chapter 2 of Regulation (EU) No 575/2013.

(b) The assessment shall be carried out by the Commission which would be responsible for consolidated supervision if subsections (2) to (4) were to apply, at the request of the parent undertaking or of any of the regulated entities authorised in the European Union or on its own initiative.

(c) The Commission shall consult the other competent authorities involved.

(d) Where the Commission carries out the assessment referred to in subsection (1), it shall take into account any such guidance and for that purpose, it shall consult EBA before adopting a decision.

(2)(a) In the absence of equivalent supervision, the Commission shall apply this Law and Regulation (EU) No 575/2013 to CIFs mutatis mutandis or shall apply other appropriate supervisory techniques which achieve the objectives of supervision on a consolidated basis of investment firms.

(b) The supervisory techniques referred to in paragraph (a) shall, after consulting the other competent authorities involved, be agreed upon by the Commission which would be responsible for consolidated supervision.

(3) The Commission may in particular require the establishment of a financial holding company or mixed financial holding company which has its head office in the European Union, and apply the provisions on consolidated supervision to the consolidated position of that financial holding company or the consolidated position of the investment firms of that mixed financial holding company.

(4) The supervisory techniques shall be designed to achieve the objectives of consolidated supervision as set out in sections 71 to 89 and shall be notified by the Commission to the other competent authorities involved, to EBA and to the European Commission.

Capital Buffers
Capital conservation measures

Restrictions on distributions.

90.-(1) A CIF that meets the combined buffer requirement shall not make 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) A CIF that fails to meet the combined buffer requirement shall calculate the maximum distributable amount (hereinafter called in this section “the MDA”) in accordance with subsection (5) and shall notify the Commission thereof.

(3) Where subsection (2) applies, the CIF shall not undertake any of the following actions before it has calculated the MDA:

(a) make a profit 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; or

(c) make payments on Additional Tier 1 instruments.

(4) Where a CIF fails to meet or exceed its combined buffer requirement, it shall not distribute more than the MDA calculated in accordance with subsection (5) through any action referred to in paragraphs (a), (b) and (c) of subsection (3).

(5) The CIF shall calculate the MDA by multiplying the sum calculated in accordance with subsection (6) by the factor determined in accordance with subsection (7). The MDA shall be reduced by any amount resulting from any of the actions referred to in paragraphs (a), (b) or (c) of subsection (3).

(6) The sum to be multiplied in accordance with subsection (5) shall consist of:

(a) any interim profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013, net of any distribution of profits or any payment resulting from the actions referred to in paragraphs (a), (b) or (c) of subsection (3);

plus -

(b) any year-end profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013, net of any distribution of profits or any payment resulting from the actions referred to in paragraphs (a), (b) or (c) of subsection (3);

minus -

(c) amounts which would be payable by tax, if the items specified in paragraphs (a) and (b) were to be retained.

(7) 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 any of the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in paragraph (a) of section 61(1), 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 zero (0);

(b) where the Common Equity Tier 1 capital maintained by the CIF which is not used to meet any of the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in paragraph (a) of section 61(1), 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 twenty percentage points (0.2);

(c) where the Common Equity Tier 1 capital maintained by the CIF which is not used to meet the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in paragraph (a) of section 61(1) of this Law, 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 forty percentage points (0.4);

(d) where the Common Equity Tier 1 capital maintained by the CIF which is not used to meet the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in paragraph (a) of Article 61(1) 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 sixty percentage points (0.6).

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

$$\text{Lower bound of quartile} = \frac{\text{Combined buffer requirement} \times (Qn-1)}{4}$$

$$\text{Upper bound of quartile} = \frac{\text{Combined buffer requirement} \times Qn}{4}$$

where Qn = the ordinal number of the quartile concerned.

(9) The restrictions imposed by this section 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 the CIF.

(10) Where a CIF fails to meet the combined buffer requirement and intends to distribute any of its distributable profits or undertake an action described in paragraphs (a), (b) and (c) of subsection (3), it shall notify the Commission and provide the following information:

(a) the amount of capital maintained by the CIF, 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 subsection (5);

(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.

(11) The CIF 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 competent authority on request.

(12) For the purposes of subsections (1) to (3), a distribution of profits 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.

Failure to meet the combined buffer requirement.

91.-(1) A CIF shall be considered as failing to meet the combined buffer requirement for the purposes of section 90 where it does not have own funds in an amount and of the quality needed to meet at the same time the combined buffer requirement and each of the following requirements in:

(a) point (a) of Article 92(1) of Regulation (EU) No 575/2013 and the additional own funds requirement addressing risks other than the risk of excessive leverage under paragraph (a) of section 61(1);

(b) point (b) of Article 92(1) of Regulation (EU) No 575/2013 and the additional own funds requirement addressing risks other than the risk of excessive leverage under paragraph (a) of section 61(1);

(c) point (c) of Article 92(1) of Regulation (EU) No 575/2013 and the additional own funds requirement addressing risks other than the risk of excessive leverage under paragraph (a) of section 61(1).

Restriction on distributions in case of failure to meet the leverage ratio buffer requirement.

92.(1) A CIF that meets the leverage ratio buffer requirement pursuant to point (a) of Article 92(1) of Regulation (EU) No 575/2013 shall not make a distribution in connection with Tier 1 capital to an extent that would decrease its Tier 1 capital to a level where the leverage ratio buffer requirement is no longer met.

(2)(a) A CIF that fails to meet the leverage ratio buffer requirement shall calculate the leverage ratio-related maximum distributable amount (hereinafter called "L-MDA") in accordance with subsection (4) and shall notify the Commission thereof.

(b) Where paragraph (a) applies, the CIF shall not undertake any of the following actions before it has calculated the L-MDA:

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

(ii). 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; or

(iii). make payments on Additional Tier 1 instruments.

(3) Where a CIF fails to meet or exceed its leverage ratio buffer requirement, it shall not distribute more than the L-MDA calculated in accordance with subsection (4) through any action referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (b) of subsection (2).

(4) CIFs shall calculate the L-MDA by multiplying the sum calculated in accordance with subsection (5) by the factor determined in accordance with subsection (6). The L-MDA shall be reduced by any amount resulting from any

of the actions referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (b) of subsection (2).

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

(a) any interim profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013 net of any distribution of profits or any payment related to the actions referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (b) of subsection (2) of this Article;

plus -

(b) any year-end profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013 net of any distribution of profits or any payment related to the actions referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (b) of subsection (2) of this Article;

minus -

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

(6)(a) The factor referred to in subsection (4) shall be determined as follows:

(i). where the Tier 1 capital maintained by the CIF which is not used to meet the requirements under point (d) of Article 92(1) of Regulation (EU) No 575/2013 and under paragraph (a) of section 61(1) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of Regulation (EU) No 575/2013, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of that Regulation, is within the first (that is, the lowest) quartile of the leverage ratio buffer requirement, the factor shall be zero (0);

(ii). where the Tier 1 capital maintained by the CIF which is not used to meet the requirements under point (d) of Article 92(1) of Regulation (EU) No 575/2013 and under paragraph (a) of Article 61(1) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of Regulation (EU) No 575/2013, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of that Regulation, is within the second quartile of the leverage ratio buffer requirement, the factor shall be twenty percentage points (0.2);

(iii). where the Tier 1 capital maintained by the CIF which is not used to meet the requirements under point (d) of Article 92(1) of Regulation (EU) No 575/2013 and under paragraph (a) of section 61(1) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of Regulation (EU) No 575/2013, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of that Regulation, is within the third quartile of the leverage ratio buffer requirement, the factor shall be forty percentage points (0.4);

(iv). where the Tier 1 capital maintained by the CIF which is not used to meet the requirements under point (d) of Article 92(1) of Regulation (EU) No 575/2013 and under paragraph (a) of section 61(1) of this Law when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of Regulation (EU) No 575/2013, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of that Regulation, is within the fourth quartile (that is, the highest) quartile of the leverage ratio buffer requirement, the factor shall be sixty percentage points (0.6).

(b) The lower and upper bounds of each quartile of the leverage ratio buffer requirement shall be calculated as follows:

$$\text{Lower bound of quartile} = \frac{\text{Leverage ratio buffer requirement} \times (Qn-1)}{4}$$

$$\text{Upper bound of quartile} = \frac{\text{Leverage ratio buffer requirement} \times Qn}{4}$$

where Qn is the ordinal number of the quartile concerned.

(7) The restrictions imposed by this Article shall only apply to payments that result in a reduction of 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 the CIF.

(8) Where a CIF fails to meet the leverage ratio buffer requirement and intends to distribute any of its distributable profits or undertake an action referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (b) of subsection (2), it shall notify the Commission and provide the information listed in Article 90(10), with

the exception of sub-paragraph (iii) of paragraph (a) of section 90(10), and the L-MDA calculated in accordance with subsection (4).

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

(10) For the purposes of subsections (1) and (2), a distribution in connection with Tier 1 capital shall include any of the items listed in section 90(12).

Failure to meet the leverage ratio buffer requirement.

93. A CIF shall be considered as failing to meet the leverage ratio buffer requirement for the purposes of section 92 where it does not have Tier 1 capital in the amount needed to meet at the same time the requirement laid down in point (a) of Article 92(1) of Regulation (EU) No 575/2013 and the requirement laid down in point (d) of Article 92(1) of that Regulation and in paragraph (a) of section 61(1) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of Regulation (EU) No 575/2013.

Capital conservation plan.

94.-(1) Where a CIF fails to meet its combined buffer requirement or, where applicable, its leverage ratio buffer requirement, it shall prepare a capital conservation plan and submit it to the Commission no later than five (5) working days after it identified that it was failing to meet that requirement, unless the Commission authorises a longer delay up to ten (10) days.

(2) 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.

(3) 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 CIF;

(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 competent authority considers to be necessary to carry out the assessment required by subsection (4).

(4) 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.

(5) If the Commission does not approve the capital conservation plan in accordance with subsection (4), 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 60 to impose more stringent restrictions on distributions than those required by Article 90.

PART V
DISCLOSURE BY THE COMMISSION

General disclosure requirements.

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

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

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

(c) the general criteria and methodologies they use in the review and evaluation referred to in section 55, including the criteria for applying the principle of proportionality as referred to in section 55(4) to (6);

(d) without prejudice to sections 14 to 24 of this Law and to sections 77 and 82 of the Investment Services and Activities and Regulated Markets Law, aggregate statistical data on key aspects of the implementation of the prudential framework by the Commission in the Republic, including the number and nature of supervisory measures taken in accordance with section 60(1)(a) and of administrative penalties imposed in accordance with section 28.

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

Specific disclosure requirements.

96.-(1) For the purposes 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 of sections 14 to 24, 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, where it exercises 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 CIFs 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 CIF in the Republic, 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 the parent CIF 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 CIFs, which benefit 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, where it exercises the discretion laid down in Article 9(1) of Regulation (EU) No 575/2013, 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 CIFs 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 CIFs which incorporate subsidiaries in a third country;

(c) on an aggregate basis for the Republic:

(i). the total amount of own funds of parent CIFs 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 CIFs 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 CIFs 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 VI
FINAL AND TRANSITIONAL PROVISIONS

Transitional provisions on financial holding companies and mixed financial holdings

Transitional provisions on approval of financial holding companies and mixed financial holding companies.

97.-(1) Parent financial holding companies and parent mixed financial holding companies already existing on 27 June 2019 shall apply for approval, in accordance with Article 79, by 29 June 2021. If a financial holding company or mixed financial holding company fails to apply for approval by 28 June 2021, the Commission shall take appropriate measures pursuant to section 79(8) and (9).

(2) During the transitional period referred to in subsection (1), the Commission shall have all the necessary supervisory powers conferred on them by this Law with regard to financial holding companies or mixed financial holding companies subject to approval in accordance with section 79 of this Law for the purposes of consolidated supervision.

Right of appeal.

98. Every decision taken by the Commission in accordance with the provisions of Regulation (EU) No 575/2013 or with the provisions of this Law and of the directives issued pursuant to this Law shall be duly justified and subject to a right of appeal under Article 146 of the Constitution.

Issue and implementation of directives.

99.-(1) The Commission may issue directives to regulate any other matter in this Law, which requires or may be subject to determination.

(2) The implementation of the directives issued pursuant to this Law shall be obligatory for the persons to whom they are addressed.

Entry into force of this Law.

100.-(1) Without prejudice to subsections (2), (3) and (4), this Law shall enter into force on the latter of the following dates:

(a) 26 June 2021;

(b) the date of publication of this Law in the Official Gazette of the Republic.

(2) Sections 3(5), 80 and 81(1) of this Law shall enter into force upon publication of this Law in the Official Gazette of the Republic.

(3) Sections 45 and 56(8) and (9) of this Law shall enter into force on 28 June 2021.

(4) Sections 92, 93 and 94(1) of this Law shall enter into force on 1 January 2022.