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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	18 February 2026
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the supplementary supervision of credit institutions, insurance or reinsurance undertakings, investment firms , asset management companies and alternative investment fund managers in a financial conglomerate (codification)

Delegations will find herewith attached the Commission codification proposal referred to in the subject (COM(2026) 74 final - 2026/0045 (COD) and Annexes 1 to 4).

Delegations are invited to send their comments on the codification proposal by Friday, 27 March 2026 to the following addresses:

Codification@consilium.europa.eu AND sj-codification@ec.europa.eu

Delegation's attention is drawn to the Practical Guide on Codification (doc. 14722/14 + COR1).

Encl.: COM(Delegations will find attached document COM(2026) 74 final.

EUROPEAN
COMMISSION

Brussels, 17.2.2026
COM(2026) 74 final

2026/0045 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the supplementary supervision of credit institutions, insurance or reinsurance undertakings, investment firms , asset management companies and alternative investment fund managers in a financial conglomerate (codification)

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying the law of the Union so as to make it clearer and more accessible to citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

   This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

   For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

2. On 1 April 1987 the Commission decided[1] to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this[2], stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

   Codification must be undertaken in full compliance with the normal procedure for the adoption of acts of the Union.

   Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of 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[3]. The new Directive will supersede the various acts incorporated in it[4]; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal adaptations as are required by the codification exercise itself.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 2002/87/EC and the instruments amending it, carried out by the Publications Office of the European Union, by means of a data-processing system. Where the Articles have been given new numbers, the correlation

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1 COM(87) 868 PV.
2 See Annex 3 to Part A of the Conclusions.
3 Entered in the legislative programme for 2025.
4 See Part A of Annex III to this proposal.

between the old and the new numbers is shown in a table set out in Annex IV to the codified Directive.

↓ 2002/87/EC (adapted)

2026/0045 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the supplementary supervision of credit institutions, insurance ⌦ or reinsurance ⌫ undertakings, investment firms ⌦ , asset management companies and alternative investment fund managers ⌫ in a financial conglomerate (codification)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ⌦ on the Functioning of the European Union ⌫, and in particular Article ⌦ 53(1) ⌫ thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[5],

Acting in accordance with the ordinary legislative procedure,

Whereas:

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(1) Directive 2002/87/EC of the European Parliament and of the Council[6] has been substantially amended several times[7]. In the interests of clarity and rationality, that Directive should be codified.

↓ 2002/87/EC recital 5 (adapted)

(2) In order to be effective, the supplementary supervision of credit institutions, insurance ⌦ or reinsurance ⌫ undertakings, investment firms, ⌦ asset management companies and alternative investment fund managers (regulated entities) ⌫ in a financial conglomerate should be applied to all such conglomerates, the cross-sectoral financial activities of which are significant, which is the case when certain thresholds are reached, no matter how they are structured. Supplementary supervision should

5 OJ C […].

6 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 (OJ L 35, 11.2.2003, p. 1, ELI: http://data.europa.eu/eli/dir/2002/87/oj).

7 See Part A of Annex III.

cover all financial activities identified by the sectoral financial legislation and all entities principally engaged in such activities should be included ⌦ within ⌫ the scope of the supplementary supervision.

↓ 2011/89/EU recital 1 (adapted)

(3) Directive 2002/87/EC ⌦ provided ⌫ competent authorities in the financial sector with supplementary powers and tools for the supervision of groups composed of many regulated entities, which are active in different sectors of the financial markets. Such groups (financial conglomerates) are exposed to risks (group risks) which include: the risks of contagion, where risks spread from one end of the group to another; risk concentration, where the same type of risk materialises in various parts of the group at the same time; the complexity of managing many different legal entities; potential conflicts of interest; and the challenge of allocating regulatory capital to all the regulated entities which are part of the financial conglomerate, thereby avoiding the multiple use of capital. Financial conglomerates should therefore be subject to supervision supplementary to supervision on a stand alone, consolidated or group basis, without duplicating or affecting the group and regardless of the legal structure of the group.

↓ 2011/89/EU recital 3 (adapted)

(4) It is necessary that financial conglomerates are identified throughout the Union according to the extent to which they are exposed to group risks, on the basis of common guidelines to be issued by the European Supervisory Authority (European Banking Authority) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[8] (EBA), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council[9] (EIOPA) and the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council[10] (ESMA) in accordance with Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 ⌦ respectively ⌫, through the Joint Committee of the European Supervisory Authorities (Joint Committee). It is also important that the requirements regarding the waiving of the application of supplementary supervision are applied in a risk-based manner in accordance with those guidelines. This is of particular importance in the case of the larger, internationally operating financial conglomerates.

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8 Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: http://data.europa.eu/eli/reg/2010/1093/oj).

9 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 (OJ L 331, 15.12.2010, p. 48, ELI: http://data.europa.eu/eli/reg/2010/1094/oj).

10 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 (OJ L 331, 15.12.2010, p. 84, ELI: http://data.europa.eu/eli/reg/2010/1095/oj).

↓ 2002/87/EC recital 6 (adapted)

(5) Decisions not to include a particular entity ⌦ within ⌫ the scope of supplementary supervision should be taken bearing in mind *inter alia* whether or not such entity is included in the group-wide supervision under sectoral rules.

↓ 2002/87/EC recital 7 (adapted)

(6) The competent authorities should be able to assess at a group-wide level the financial situation of ⌦ regulated entities ⌫ which are part of a financial conglomerate, in particular as regards solvency (including the elimination of multiple gearing of own funds instruments), risk concentration and intra-group transactions.

↓ 2002/87/EC recital 8

(7) Financial conglomerates are often managed on a business-line basis which does not fully coincide with the conglomerate's legal structures.

↓ 2002/87/EC recital 9

(8) All financial conglomerates subject to supplementary supervision should have a coordinator appointed from among the competent authorities involved.

↓ 2002/87/EC recital 10

(9) The tasks of the coordinator should not affect the tasks and responsibilities of the competent authorities as provided for by the sectoral rules.

↓ 2002/87/EC recital 11 (adapted)

(10) The competent authorities involved, and especially the coordinator, should have the means of obtaining from the ⌦ regulated ⌫ entities within a financial conglomerate, or from other competent authorities, the information necessary for the performance of their supplementary supervision.

↓ 2011/89/EU recital 4 (adapted)

(11) The comprehensive and adequate monitoring of group risks in large, complex, internationally operating financial conglomerates, as well as the supervision of the group-wide capital policies of such groups, is only possible when competent authorities gather supervisory information and plan supervisory measures beyond the national scope of their mandate. It is therefore necessary that competent authorities coordinate supplementary supervision on internationally operating financial conglomerates among the competent authorities which are regarded as most relevant for the supplementary supervision of a financial conglomerate. The colleges of financial conglomerates' relevant competent authorities should act in accordance with the supplementary nature of ⌦ this ⌫ Directive, and as such should not duplicate or replace but should, rather, add value to the activities of existing colleges relevant to the banking and insurance subgroups within those financial conglomerates. A college

should be set up for a financial conglomerate only where neither a banking nor an insurance sectoral college is in place.

↓ 2002/87/EC recital 12 (adapted)

(12) There is a need for collaboration between authorities responsible for the supervision of ⌦ regulated entities ⌫, including the development of *ad hoc* cooperation arrangements between the authorities involved in the supervision of entities belonging to the same financial conglomerate.

↓ 2011/89/EU recital 5 (adapted)

(13) In order to ensure appropriate regulatory oversight, it is necessary that the legal structure and the governance and organisational structure, including all regulated entities, non-regulated subsidiaries and significant branches of banks, insurance ⌦ or reinsurance ⌫ undertakings and financial conglomerates with cross-border activities, are monitored by EBA, EIOPA, ESMA (collectively referred to as 'the ESAs') and the Joint Committee, as appropriate, and that information is made available to the relevant competent authorities.

↓ 2011/89/EU recital 6

(14) In order to ensure effective supplementary supervision of regulated entities in a financial conglomerate, in particular where the head office of one of its subsidiaries is in a third country, the undertakings to which this Directive applies should include any undertaking, in particular any credit institution which has its registered office in a third country and which would require authorisation if its registered office were in the Union.

↓ 2011/89/EU recital 7 (adapted)

(15) The supplementary supervision of large, complex, internationally operating financial conglomerates requires coordination throughout the Union, in order to contribute to the stability of the internal market for financial services. To that end, competent authorities need to agree upon the supervisory approaches to be applied to those financial conglomerates. The ESAs should issue, in accordance with Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 ⌦ respectively ⌫, through the Joint Committee, common guidelines for those common supervisory approaches, thus ensuring a comprehensive prudential framework of the supervisory tools and powers available in the banking, insurance, securities and financial conglomerates Directives. The guidelines provided for in ⌦ this ⌫ Directive should reflect the supplementary nature of supervision thereunder, and complement the sector-specific supervision as provided for by Directives 2009/138/EC[11], 2011/61/EU[12], 2013/36/EU[13] and 2014/65/EU[14] of the European Parliament and of the Council.

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[11] 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) (OJ L 335, 17.12.2009, p. 1, ELI: http://data.europa.eu/eli/dir/2009/138/oj).

↓ 2011/89/EU recital 8 (adapted)

(16) There is a genuine need to monitor and control potential group risks, posed to the financial conglomerate, arising from participations in other companies. For those cases where the specific supervisory powers provided for by ⌦ this ⌫ Directive appear to be insufficient, the supervisory community should develop alternative methods to address and appropriately take into account these risks, preferably by work conducted by the ESAs through the Joint Committee. If a participation is the only element of identification of a financial conglomerate, supervisors should be allowed to assess whether the group is exposed to group risks and waive the need for supplementary supervision, if appropriate.

↓ 2011/89/EU recital 11 (adapted)

(17) While stress testing should occur regularly for the banking and insurance subgroups of a financial conglomerate, it is the role of the coordinator appointed in accordance with ⌦ this ⌫ Directive to decide the appropriateness, parameters and timing of a stress test for an individual financial conglomerate as a whole. For Union-wide stress tests, carried out by the ESAs in a sector-specific context, the role of the Joint Committee should be to ensure that such stress tests occur in a consistent manner across sectors. For these reasons, the ESAs, through the Joint Committee, should be able to develop supplementary parameters for Union-wide stress tests, capturing the specific group risks that typically materialise in financial conglomerates and should be able to publish the results of those tests, where permitted by sectoral legislation. Experience from previous Union-wide stress tests should be taken into account. For example, stress tests should take account of liquidity and solvency risks of financial conglomerates.

↓ 2002/87/EC recital 13 (adapted)

(18) ⌦ Regulated entities ⌫ which have their head office in the ⌦ Union ⌫ can be part of a financial conglomerate, the head of which is outside the ⌦ Union ⌫. These regulated entities should also be subject to equivalent and appropriate supplementary supervisory arrangements which achieve objectives and results similar to those pursued by the provisions of this Directive. To this end, transparency of rules and exchange of information with third-country authorities on all relevant circumstances are of great importance.

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12 Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1, ELI: http://data.europa.eu/eli/dir/2011/61/oj).

13 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 (OJ L 176, 27.6.2013, p. 338, ELI: http://data.europa.eu/eli/dir/2013/36/oj).

14 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349, ELI: http://data.europa.eu/eli/dir/2014/65/oj).

↓ 2002/87/EC recital 14

(19) Equivalent and appropriate supplementary supervisory arrangements can only be assumed to exist if the third-country supervisory authorities have agreed to cooperate with the competent authorities concerned on the means and objectives of exercising supplementary supervision of the regulated entities of a financial conglomerate.

↓ 2002/87/EC recital 15 (adapted)

(20) This Directive does not require the disclosure by ⌦ the ⌫ competent authorities to a Financial Conglomerates Committee of information which is subject to an obligation of confidentiality under this Directive or other sectoral Directives.

↓ 2011/89/EU recital 15 (adapted)

(21) In order to improve the supplementary supervision of financial entities in a financial conglomerate, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of technical adaptations to be made to ⌦ this ⌫ Directive as regards the definitions, the alignment of terminology and the calculation methods set out ⌦ herein ⌫. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level ⌦ , and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[15]. In particular, to ensure equal participation in the preparation of delegated acts, ⌫ the European Parliament and the Council ⌦ receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts ⌫.

↓ 2002/87/EC recital 16 (adapted)

(22) Since the objective of ⌦ this Directive ⌫, namely the ⌦ laying down ⌫ of rules on the supplementary supervision of ⌦ regulated entities ⌫ in a financial conglomerate, cannot be sufficiently achieved by the Member States ⌦ but ⌫ can ⌦ rather ⌫, by reason of the scale ⌦ or ⌫ effects of the action, be better achieved at ⌦ Union ⌫ level, the ⌦ Union ⌫ may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty ⌦ on European Union ⌫. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve ⌦ that ⌫ objective. Since this Directive defines minimum standards, Member States may lay down stricter rules.

↓ 2002/87/EC recital 17

(23) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

[15] OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

↓

(24) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law and the dates of application of the Directives set out in Part B of Annex III,

↓ 2002/87/EC (adapted)

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

⌦ SUBJECT MATTER ⌫ AND DEFINITIONS

↓ 2011/89/EU Art. 2, pt. 1 (adapted)

Article 1

Subject matter

This Directive lays down rules for ⌦ the ⌫ supplementary supervision of regulated entities which have obtained an authorisation in accordance with Article 5 of Directive 2014/65/EU, Article 8 of Directive 2013/36/EU, Article 5 of Directive 2009/65/EC of the European Parliament and of the Council[16], Article 14 of Directive 2009/138/EC or Articles 6 to 11 of Directive 2011/61/EU, and which are part of a financial conglomerate.

Article 2

Definitions

For the purposes of this Directive ⌦ , the following definitions apply ⌫:

(1) 'credit institution' means a credit institution ⌦ as defined in ⌫ Article 4 (1), point (1), of ⌦ Regulation (EU) No 575/2013 of the European Parliament and of the Council[17] ⌫;

(2) 'insurance undertaking' means an insurance undertaking ⌦ as defined in ⌫ Article 13, points (1), (2) or (3), of Directive 2009/138/EC;

(3) 'investment firm' means an investment firm ⌦ as defined in ⌫ Article 4(1), point (1), of Directive 2014/65/EU, including ⌦ a recognised third-country investment firm as defined ⌫ in Article 4(1), point (25), of Regulation (EU)

[16] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32, ELI: http://data.europa.eu/eli/dir/2009/65/oj).

[17] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/575/oj).

No 575/2013 or an undertaking the registered office of which is in a third country and which would require authorisation under Directive 2014/65/EU if its registered office were in the Union;

(4) 'regulated entity' means a credit institution, an insurance undertaking, a reinsurance undertaking, an investment firm, an asset management company or an alternative investment fund manager;

(5) 'asset management company' means a management company ⌦ as defined in ⌫ Article 2(1), point (b), of Directive 2009/65/EC or an undertaking the registered office of which is in a third country and which would require authorisation under that Directive if its registered office were ⌦ in ⌫ the Union;

(6) 'alternative investment fund manager' means a manager of alternative investment funds ⌦ as defined in ⌫ Article 4(1), points (b), (l) and (ab), of Directive 2011/61/EU or an undertaking the registered office of which is in a third country and which would require authorisation under that Directive if its registered office were ⌦ in ⌫ the Union;

(7) 'reinsurance undertaking' means a reinsurance undertaking ⌦ as defined in ⌫ Article 13, points (4), (5) or (6), of Directive 2009/138/EC or a special purpose vehicle ⌦ as defined in ⌫ Article 13, point (26), of Directive 2009/138/EC;

↓ 2019/2034 Art. 59

(8) 'sectoral rules' means Union legal acts relating to the prudential supervision of regulated entities, in particular Regulation (EU) No 575/2013, Regulation (EU) 2019/2033 of the European Parliament and of the Council[18], Directives 2009/138/EC, 2013/36/EU and 2014/65/EU and Directive (EU) 2019/2034 of the European Parliament and of the Council[19];

↓ 2011/89/EU Art. 2, pt. 1 (adapted)

(9) 'financial sector' means a sector composed of one or more of the following entities:

(a) a credit institution, a financial institution or an ancillary services undertaking ⌦ as defined respectively in ⌫ Article 4(1), points (1), (26) or (18), of ⌦ Regulation (EU) No 575/2013 ⌫ (referred to collectively as 'banking sector');

(b) an insurance undertaking, a reinsurance undertaking or an insurance holding company ⌦ as defined respectively in ⌫ Article 13, points (1), (2), (4) or (5), or ⌦ in ⌫ Article 212(1), point (f), of Directive 2009/138/EC (referred to collectively as 'insurance sector');

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[18] Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/2033/oj).

[19] Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019, p. 64, ELI: http://data.europa.eu/eli/dir/2019/2034/oj).

(c) an investment firm ⌦ as defined in ⌫ Article 4(1), point (2), of ⌦ Regulation (EU) No 575/2013 ⌫ (referred to collectively as 'investment services sector');

(10) 'parent undertaking' means a parent undertaking as defined in Article 2, point (9), of Directive 2013/34/EU of the European Parliament and of the Council[20] or any undertaking which, in the opinion of the competent authorities, effectively exercises a dominant influence over another undertaking;

(11) 'subsidiary undertaking' means a subsidiary undertaking as defined in Article 2, point (10), of Directive 2013/34/EU or any undertaking over which, in the opinion of the competent authorities, a parent undertaking effectively exercises a dominant influence or all subsidiaries of such subsidiary undertakings;

(12) 'participation' means a ⌦ participating interest as defined in ⌫ Article 2, point (2), of Directive 2013/34/EU, or the direct or indirect ownership of 20 % or more of the voting rights or capital of an undertaking;

(13) 'group' means a group of undertakings which consists of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries hold a participation, or undertakings linked to each other by a relationship ⌦ as referred to in ⌫ Article 22(7) of Directive 2013/34/EU, including any subgroup thereof;

(14) 'control' means the relationship between a parent undertaking and a subsidiary undertaking as ⌦ referred to ⌫ in Article 22 of Directive 2013/34/EU, or a similar relationship between a natural or legal person and an undertaking;

(15) 'close links' means a situation in which two or more natural or legal persons are linked by control or participation, or a situation in which two or more natural or legal persons are permanently linked to the same person by a control relationship;

(16) 'financial conglomerate' means a group or subgroup, where a regulated entity is at the head of the group or subgroup, or where at least one of the subsidiaries in that group or subgroup is a regulated entity, and which meets the following conditions:

(a) where there is a regulated entity at the head of the group or subgroup:

(i) that entity is a parent undertaking of an entity in the financial sector, an entity which holds a participation in an entity in the financial sector, or an entity linked with an entity in the financial sector by a relationship ⌦ as referred to in ⌫ Article 22(7) of Directive 2013/34/EU ;

(ii) at least one of the entities in the group or subgroup is within the insurance sector and at least one is within the banking or investment services sector;

(iii) the consolidated or aggregated activities of the entities in the group or subgroup within the insurance sector and of the entities within the banking and investment services sector are both significant ⌦ as referred to in ⌫ Article 3(2) or (3) of this Directive;

[20] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: http://data.europa.eu/eli/dir/2013/34/oj).

(b) where there is no regulated entity at the head of the group or subgroup:

(i) the group's or subgroup's activities occur mainly in the financial sector ⌦ as referred to in ⌫ Article 3(1);

(ii) at least one of the entities in the group or subgroup is within the insurance sector and at least one is within the banking or investment services sector;

(iii) the consolidated or aggregated activities of the entities in the group or subgroup within the insurance sector and of the entities within the banking and investment services sector are both significant ⌦ as referred to in ⌫ Article 3(2) or (3);

(17) 'mixed financial holding company' means a parent undertaking, other than a regulated entity, which together with its subsidiaries, at least one of which is a regulated entity which has its registered office in the Union, and other entities constitutes a financial conglomerate;

(18) 'competent authorities' means the national authorities of the Member States which are empowered by law or regulation to supervise ⌦ regulated entities ⌫ whether on an individual or group-wide basis;

(19) 'relevant competent authorities' means:

(a) competent authorities responsible for the sectoral group-wide supervision of any of the regulated entities in a financial conglomerate, in particular of the ultimate parent undertaking of a sector;

(b) the coordinator appointed in accordance with Article 12 if different from the authorities referred to in point (a);

(c) where appropriate, other competent authorities relevant to the opinion of the authorities referred to in points (a) and (b);

(20) 'intra-group transactions' means all transactions by which regulated entities within a financial conglomerate rely directly or indirectly on other undertakings within the same group or on any natural or legal person linked to the undertakings within that group by close links, for the fulfilment of an obligation, whether or not contractual, and whether or not for payment;

(21) 'risk concentration' means all risk exposures with a loss potential which is large enough to threaten the solvency or the financial position in general of the regulated entities in a financial conglomerate, whether such exposures are caused by counterparty/credit risk, investment risk, insurance risk, market risk, other risks, or a combination or interaction of such risks.

Until the entry into force of any regulatory technical standards adopted in accordance with Article 26(1), point (b), the opinion referred to in point (19)(c) shall, in particular, take into account the market share of the regulated entities of the financial conglomerate in other Member States, in particular if it exceeds 5 %, and the importance in the financial conglomerate of any regulated entity established in another Member State.

↓ 2002/87/EC

Article 3

Thresholds for identifying a financial conglomerate

↓ 2011/89/EU Art. 2, pt. 2(a) (adapted)

1. For the purposes of determining whether the activities of a group mainly occur in the financial sector, ⌦ as referred to in ⌫ Article 2, first paragraph, point (16)(b)(i), the ratio of the balance sheet total of the regulated and non-regulated financial sector entities in the group to the balance sheet total of the group as a whole ⌦ must ⌫ exceed 40 %.

2. For the purposes of determining whether activities in different financial sectors are significant ⌦ as referred to in ⌫ Article 2, first paragraph, points (16)(a)(iii) or (16)(b)(iii), for each financial sector the average of the ratio of the balance sheet total of that financial sector to the balance sheet total of the financial sector entities in the group and the ratio of the solvency requirements of the same financial sector to the total solvency requirements of the financial sector entities in the group ⌦ must ⌫ exceed 10 %.

For the purposes of this Directive, the smallest financial sector in a financial conglomerate ⌦ shall be ⌫ the sector with the smallest average, and the most important financial sector in a financial conglomerate ⌦ shall be ⌫ the sector with the highest average. For the purposes of calculating the average and for the measurement of the smallest and the most important financial sectors, the banking sector and the investment services sector shall be considered together.

Asset management companies shall be added to the sector to which they belong within the group. If they do not belong exclusively to one sector within the group, they shall be added to the smallest financial sector.

Alternative investment fund managers shall be added to the sector to which they belong within the group. If they do not belong exclusively to one sector within the group, they shall be added to the smallest financial sector.

3. Cross-sectoral activities shall also be presumed to be significant ⌦ as referred to in ⌫ Article 2, first paragraph, points (16)(a)(iii) or (16)(b)(iii), if the balance sheet total of the smallest financial sector in the group exceeds EUR 6 billion.

If the group does not reach the threshold referred to in paragraph 2, the relevant competent authorities may decide by common agreement not to regard the group as a financial conglomerate. They may also decide not to apply the provisions of Articles 7, 8 or 9, if they are of the opinion that the inclusion of the group ⌦ within ⌫ the scope of this Directive or the application of such provisions is not necessary or would be inappropriate or misleading with respect to the objectives of supplementary supervision.

Decisions taken in accordance with this paragraph shall be notified to the other competent authorities and shall, save in exceptional circumstances, be made public by the competent authorities.

4. If the group reaches the threshold referred to in paragraph 2, but the smallest sector does not exceed EUR 6 billion, the relevant competent authorities may decide by common agreement not to regard the group as a financial conglomerate. They may also decide not to

apply the provisions of Articles 7, 8 or 9, if they are of the opinion that the inclusion of the group ⌦ within ⌫ the scope of this Directive or the application of such provisions is not necessary or would be inappropriate or misleading with respect to the objectives of supplementary supervision.

Decisions taken in accordance with this paragraph shall be notified to the other competent authorities and shall, save in exceptional circumstances, be made public by the competent authorities.

↓ 2002/87/EC

5. For the application of paragraphs 1, 2 and 3, the relevant competent authorities may by common agreement:

↓ 2011/89/EU Art. 2, pt. 2(b)

(a) exclude an entity when calculating the ratios, in the cases referred to in Article 6(5), unless the entity moved from a Member State to a third country and there is evidence that the entity changed its location in order to avoid regulation;

↓ 2002/87/EC

(b) take into account compliance with the thresholds envisaged in paragraphs 1 and 2 for three consecutive years so as to avoid sudden regime shifts, and disregard such compliance if there are significant changes in the group's structure;

↓ 2011/89/EU Art. 2, pt. 2(b)

(c) exclude one or more participations in the smaller sector if such participations are decisive for the identification of a financial conglomerate, and are collectively of negligible interest with respect to the objectives of supplementary supervision.

↓ 2002/87/EC (adapted)

Where a financial conglomerate has been identified ⌦ in accordance with ⌫ paragraphs 1, 2 and 3, the decisions referred to in the first subparagraph of this paragraph shall be taken on the basis of a proposal made by the coordinator of that financial conglomerate.

↓ 2011/89/EU Art. 2, pt. 2(c)

6. For the application of paragraphs 1 and 2, the relevant competent authorities may, in exceptional cases and by common agreement, replace the criterion based on balance sheet total with one or more of the following parameters or add one or more of these parameters, if they are of the opinion that those parameters are of particular relevance for the purpose of supplementary supervision under this Directive: income structure, off-balance sheet activities, total assets under management.

↓ 2002/87/EC (adapted)

7. For the application of paragraphs 1 and 2, if the ratios referred to in those paragraphs fall below 40 % and 10 % respectively for conglomerates already subject to supplementary supervision, a lower ratio of 35 % and 8 % respectively shall apply for the following three years to avoid sudden regime shifts.

Similarly, for the application of paragraph 3, if the balance sheet total of the smallest financial sector in the group falls below EUR 6 billion for conglomerates already subject to supplementary supervision, a lower figure of EUR 5 billion shall apply for the following three years to avoid sudden regime shifts.

During the period referred to in this paragraph, the coordinator may, with the agreement of the other relevant competent authorities, decide that the lower ratios or the lower amount referred to in this paragraph shall cease to apply.

8. The calculations referred to in this Article regarding the balance sheet shall be made on the basis of the aggregated balance sheet total of the entities of the group, according to their annual accounts. For the purposes of ⌦ that ⌫ calculation, undertakings in which a participation is held shall be taken into account as regards the amount of their balance sheet total corresponding to the aggregated proportional share held by the group. However, where consolidated accounts are available, they shall be used instead of aggregated accounts.

The solvency requirements referred to in paragraphs 2 and 3 shall be calculated in accordance with the provisions of the relevant sectoral rules.

↓ 2011/89/EU Art. 2, pt. 2(d) (adapted)

9. The European Supervisory Authority (European Banking Authority) established by Regulation (EU) No 1093/2010 (EBA), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094/2010 (EIOPA) and the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010 (ESMA) (collectively referred to as 'the ⌦ ESAs ⌫') shall, through the Joint Committee of the ⌦ European Supervisory Authorities ⌫ (Joint Committee), issue common guidelines aimed at the convergence of supervisory practices with regard to the application of paragraphs 2 to 6 of this Article.

10. The competent authorities shall, on an annual basis, reassess waivers of the application of supplementary supervision and shall review the quantitative indicators ⌦ laid down ⌫ in this Article and risk-based assessments applied to financial groups.

↓ 2002/87/EC (adapted)

Article 4

Identifying a financial conglomerate

1. Competent authorities which have authorised regulated entities shall, on the basis of Articles 2, 3 and 5, identify any group that falls ⌦ within ⌫ the scope of this Directive.

↓ 2011/89/EU Art. 2, pt. 3(a)

For that purpose:

(a) competent authorities which have authorised regulated entities in the group shall cooperate closely;

(b) if a competent authority is of the opinion that a regulated entity authorised by that competent authority is a member of a group which may be a financial conglomerate and which has not already been identified in accordance with this Directive, the competent authority shall communicate its view to the other competent authorities concerned and to the Joint Committee.

↓ 2010/78/EU Art. 2, pt. 1(a)

2. The coordinator appointed in accordance with Article 12 shall inform the parent undertaking at the head of a group or, in the absence of a parent undertaking, the regulated entity with the largest balance sheet total in the most important financial sector in a group, that the group has been identified as a financial conglomerate and of the appointment of the coordinator.

↓ 2011/89/EU Art. 2, pt. 3(b)

The coordinator shall also inform the competent authorities which have authorised regulated entities in the group, the competent authorities of the Member State in which the mixed financial holding company has its head office and the Joint Committee.

↓ 2011/89/EU Art. 2, pt. 3(c)

3. The Joint Committee shall publish and keep up-to-date on its website the list of financial conglomerates defined in accordance with Article 2, first paragraph, point (16). That information shall be available by hyperlink on each of the ESAs' websites.

The name of each regulated entity referred to in Article 1 which is part of a financial conglomerate shall be entered on a list, which the Joint Committee shall publish and keep up-to-date on its website.

↓ 2002/87/EC (adapted)

CHAPTER II

SUPPLEMENTARY SUPERVISION

SECTION 1

SCOPE

Article 5

Scope of supplementary supervision of regulated entities referred to in Article 1

1. Without prejudice to the provisions on supervision contained in the sectoral rules, Member States shall provide for the supplementary supervision of the regulated entities referred to in Article 1, to the extent and in the manner ⌦ laid down ⌫ in this Directive.

2. The following regulated entities shall be subject to supplementary supervision at the level of the financial conglomerate in accordance with Articles 6 to 21:

(a) every regulated entity which is at the head of a financial conglomerate;

↓ 2011/89/EU Art. 2, pt. 4(a)

(b) every regulated entity, the parent undertaking of which is a mixed financial holding company which has its head office in the Union;

↓ 2002/87/EC (adapted)

(c) every regulated entity linked with another financial sector entity by a relationship ⌦ as referred to in ⌫ Article 22(7) of Directive 2013/34/EU.

Where a financial conglomerate is a subgroup of another financial conglomerate which meets the requirements of the first subparagraph, Member States may apply Articles 6 to 21 to the regulated entities within the latter group only and any reference in ⌦ this ⌫ Directive to the terms group and financial conglomerate ⌦ shall ⌫ then be understood as referring to that latter group.

↓ 2011/89/EU Art. 2, pt. 4(b) (adapted)

3. Every regulated entity which is not subject to supplementary supervision in accordance with paragraph 2, the parent undertaking of which is a regulated entity or a mixed financial holding company which has its head office in a third country, shall be subject to supplementary supervision at the level of the financial conglomerate to the extent and in the manner ⌦ provided for ⌫ in Article 22.

↓ 2002/87/EC (adapted)

4. Where persons hold participations or capital ties in one or more regulated entities or exercise significant influence over such entities without holding a participation or capital ties, other than the cases referred to in paragraphs 2 and 3, the relevant competent authorities shall, by common agreement and in conformity with national law, determine whether and to what extent supplementary supervision of the regulated entities is to be carried out, as if they ⌦ constituted ⌫ a financial conglomerate.

↓ 2011/89/EU Art. 2, pt. 4(c) (adapted)

In order to apply such supplementary supervision, at least one of the entities must be a regulated entity as referred to in Article 1 and the conditions ⌦ laid down ⌫ in Article 2, first paragraph, points (16)(a)(ii) or (16)(b)(ii), and Article 2, first paragraph, points (16)(a)(iii) or (16)(b)(iii), must be met. The relevant competent authorities shall take their decision, taking into account the objectives of the supplementary supervision as provided for by this Directive.

↓ 2002/87/EC (adapted)

For the purposes of applying the first subparagraph to 'cooperative groups', the competent authorities ⌦ shall ⌫ take into account the public financial commitment of ⌦ those ⌫ groups with respect to other financial entities.

5. Without prejudice to Article 17, the exercise of supplementary supervision at the level of the financial conglomerate shall in no way imply that the competent authorities are required to play a supervisory role in relation to mixed financial holding companies, third-country regulated entities in a financial conglomerate or unregulated entities in a financial conglomerate, on a stand-alone basis.

SECTION 2

FINANCIAL POSITION

Article 6

Capital adequacy

1. Without prejudice to the sectoral rules, supplementary supervision of the capital adequacy of the regulated entities in a financial conglomerate shall be exercised in accordance with the rules laid down in Article 9(2) to (5), in Section 3 of this Chapter, and in Annex I.

2. Member States shall require regulated entities in a financial conglomerate to ensure that own funds are available at the level of the financial conglomerate which are always at least equal to the capital adequacy requirements as calculated in accordance with Annex I.

Member States shall also require regulated entities to have in place adequate capital adequacy policies at the level of the financial conglomerate.

The requirements referred to in the first and second subparagraphs shall be subject to supervisory overview by the coordinator in accordance with Section 3.

The coordinator shall ensure that the calculation referred to in the first subparagraph is carried out at least once a year, either by the regulated entities or by the mixed financial holding company.

The results of the calculation and the relevant data for the calculation shall be submitted to the coordinator by the regulated entity within the meaning of Article 1 which is at the head of the financial conglomerate, or, where the financial conglomerate is not headed by a regulated entity within the meaning of Article 1, by the mixed financial holding company or by the regulated entity in the financial conglomerate identified by the coordinator after consultation with the other relevant competent authorities and with the financial conglomerate.

↓ 2011/89/EU Art. 2, pt. 5 (adapted)

3. For the purposes of calculating the capital adequacy requirements referred to in paragraph 2, first subparagraph, the following entities shall be included ⌦ within ⌫ the scope of supplementary supervision in accordance with Annex I:

(a) a credit institution, a financial institution or an ancillary services undertaking;

(b) an insurance undertaking, a reinsurance undertaking or an insurance holding company;

(c) an investment firm;

(d) a mixed financial holding company.

4. When calculating the supplementary capital adequacy requirements with regard to a financial conglomerate by applying method 1 (Accounting consolidation) referred to in Annex I to this Directive, the own funds and the solvency requirements of the entities in the group shall be calculated by applying the corresponding sectoral rules on the form and extent of consolidation as laid down in particular in Article 18 of Regulation (EU) No 575/2013 and ⌦ in ⌫ Article 221 of Directive 2009/138/EC.

When applying method 2 (Deduction and aggregation) referred to in Annex I, the calculation shall take account of the proportion of the subscribed capital which is directly or indirectly held by the parent undertaking or undertaking which holds a participation in another entity of the group.

↓ 2002/87/EC (adapted)

5. The coordinator may decide not to include a particular entity ⌦ within ⌫ the scope when calculating the supplementary capital adequacy requirements in the following cases:

(a) if the entity is situated in a third country where there are legal impediments to the transfer of the necessary information, without prejudice to the sectoral rules regarding the obligation of competent authorities to refuse authorisation where the effective exercise of their supervisory functions is prevented;

(b) if the entity is of negligible interest with respect to the objectives of the supplementary supervision of regulated entities in a financial conglomerate;

(c) if the inclusion of the entity would be inappropriate or misleading with respect to the objectives of supplementary supervision.

However, if several entities are to be excluded pursuant to the first subparagraph, point (b), they ⌦ shall ⌫ nevertheless be included when collectively they are of non-negligible interest.

In the case ⌦ referred to ⌫ in the first subparagraph, point (c), the coordinator shall, except in cases of urgency, consult the other relevant competent authorities before taking a decision.

When the coordinator does not include a regulated entity ⌦ within ⌫ the scope under one of the cases ⌦ referred to ⌫ in the first subparagraph, points (b) and (c), the competent authorities of the Member State in which that entity is situated may ask the entity which is at the head of the financial conglomerate for information which may facilitate their supervision of the regulated entity.

Article 7

Risk concentration

1. Without prejudice to the sectoral rules, supplementary supervision of the risk concentration of regulated entities in a financial conglomerate shall be exercised in accordance with the rules laid down in Article 9(2), (3) and (4), in Section 3 of this Chapter and in Annex II.

2. Member States shall require regulated entities or mixed financial holding companies to report, on a regular basis and at least annually, to the coordinator any significant risk concentration at the level of the financial conglomerate, in accordance with the rules laid down in this Article and in Annex II. The necessary information shall be submitted to the coordinator by the regulated entity within the meaning of Article 1 which is at the head of the financial conglomerate or, where the financial conglomerate is not headed by a regulated entity within the meaning of Article 1, by the mixed financial holding company or by the regulated entity in the financial conglomerate identified by the coordinator after consultation with the other relevant competent authorities and with the financial conglomerate.

⌦ Those ⌫ risk concentrations shall be subject to supervisory overview by the coordinator in accordance with Section 3.

↓ 2011/89/EU Art. 2, pt. 6(a)

3. Pending further coordination of Union legislation, Member States may set quantitative limits, allow their competent authorities to set quantitative limits, or adopt other supervisory measures which would achieve the objectives of supplementary supervision, with regard to any risk concentration at the level of a financial conglomerate.

↓ 2002/87/EC

4. Where a financial conglomerate is headed by a mixed financial holding company, the sectoral rules regarding risk concentration of the most important financial sector in the financial conglomerate, if any, shall apply to that sector as a whole, including the mixed financial holding company.

↓ 2011/89/EU Art. 2, pt. 6(b) (adapted)

5. The ⌦ ESAs ⌫ shall, through the Joint Committee, issue common guidelines aimed at the convergence of supervisory practices with regard to the application of supplementary supervision of risk concentration as provided for in paragraphs 1 to 4 of this Article. In order to avoid duplication, the guidelines shall ensure that the application of the supervisory tools as provided for in this Article is aligned to the application of Articles 389 to 396 and 399 to 403 of Regulation (EU) No 575/2013 and of Article 244 of Directive 2009/138/EC. They shall issue specific common guidelines on the application of paragraphs 1 to 4 of this Article to participations of the financial conglomerate in cases where national company law provisions obstruct the application of Article 18(2) of this Directive.

↓ 2002/87/EC (adapted)

Article 8

Intra-group transactions

1. Without prejudice to the sectoral rules, supplementary supervision of intra-group transactions of regulated entities in a financial conglomerate shall be exercised in accordance with the rules laid down in Article 9(2), (3) and (4), in Section 3 of this Chapter, and in Annex II.

2. Member States shall require regulated entities or mixed financial holding companies to report, on a regular basis and at least annually, to the coordinator all significant intra-group transactions of regulated entities within a financial conglomerate, in accordance with the rules laid down in this Article and in Annex II. Insofar as no definition of the thresholds referred to in the last sentence of the first paragraph of Annex II has been drawn up, an intra-group transaction shall be presumed to be significant if its amount exceeds at least 5 % of the total amount of capital adequacy requirements at the level of a financial conglomerate.

The necessary information shall be submitted to the coordinator by the regulated entity within the meaning of Article 1 which is at the head of the financial conglomerate or, where the financial conglomerate is not headed by a regulated entity within the meaning of Article 1, by the mixed financial holding company or by the regulated entity in the financial conglomerate identified by the coordinator after consultation with the other relevant competent authorities and with the financial conglomerate.

⌦ Those ⌫ intra-group transactions shall be subject to supervisory overview by the coordinator.

↓ 2011/89/EU Art. 2, pt. 7(a) (adapted)

3. Pending further coordination of Union legislation, Member States may set quantitative limits and qualitative requirements, allow their competent authorities to set quantitative limits or qualitative requirements, or ⌦ adopt ⌫ other supervisory measures that would achieve the objectives of supplementary supervision, with regard to intra-group transactions of regulated entities within a financial conglomerate.

↓ 2002/87/EC

4. Where a financial conglomerate is headed by a mixed financial holding company, the sectoral rules regarding intra-group transactions of the most important financial sector in the financial conglomerate shall apply to that sector as a whole, including the mixed financial holding company.

↓ 2011/89/EU Art. 2, pt. 7(b) (adapted)

5. The ⌦ ESAs ⌫ shall, through the Joint Committee, issue common guidelines aimed at the convergence of supervisory practices with regard to the application of supplementary supervision of intra-group transactions as provided for in paragraphs 1 to 4 of this Article. In order to avoid duplication, the guidelines shall ensure that the application of the supervisory tools, as provided for in this Article, is aligned to the application of Article 245 of Directive 2009/138/EC. They shall issue specific common guidelines on the application of paragraphs 1 to 4 of this Article to participations of the financial conglomerate in cases where national company law provisions obstruct the application of Article 18(2) of this Directive.

↓ 2002/87/EC (adapted)

Article 9

Internal control mechanisms and risk management processes

1. Member States shall require regulated entities to have in place, at the level of the financial conglomerate, adequate risk management processes and internal control mechanisms, including sound administrative and accounting procedures.

2. The risk management processes shall include:

(a) sound governance and management with the approval and periodical review of the strategies and policies by the appropriate governing bodies at the level of the financial conglomerate with respect to all the risks they assume;

(b) adequate capital adequacy policies in order to anticipate the impact of their business strategy on risk profile and capital requirements as determined in accordance with Article 6 and Annex I;

(c) adequate procedures to ensure that their risk monitoring systems are well integrated into their organisation and that all measures are taken to ensure that the systems implemented in all the undertakings included ⌦ within ⌫ the scope of supplementary supervision are consistent so that the risks can be measured, monitored and controlled at the level of the financial conglomerate;

↓ 2010/78/EU Art. 2, pt. 2 (adapted)

(d) arrangements in place to contribute to and develop, if required, adequate recovery and resolution arrangements and plans.

⌦ The ⌫ arrangements ⌦ referred to in point (d) ⌫ shall be updated regularly.

↓ 2002/87/EC

3. The internal control mechanisms shall include:

(a) adequate mechanisms as regards capital adequacy to identify and measure all material risks incurred and to appropriately relate own funds to risks;

(b) sound reporting and accounting procedures to identify, measure, monitor and control the intra-group transactions and the risk concentration.

↓ 2011/89/EU Art. 2, pt. 8(a) (adapted)

4. Member States shall ensure that in all undertakings included ⌦ within ⌫ the scope of supplementary supervision pursuant to Article 5 there are adequate internal control mechanisms for the production of any data and information which would be relevant for the purposes of the supplementary supervision.

Member States shall require the regulated entities, at the level of the financial conglomerate, to regularly provide their competent authority with details on their legal structure and governance and organisational structure including all regulated entities, non-regulated subsidiaries and significant branches.

Member States shall require the regulated entities to disclose publicly, at the level of the financial conglomerate, on an annual basis, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure.

↓ 2002/87/EC

5. The processes and mechanisms referred to in paragraphs 1 to 4 shall be subject to supervisory overview by the coordinator.

↓ 2011/89/EU Art. 2, pt. 8(b) (adapted)

6. Competent authorities shall align the application of the supplementary supervision of internal control mechanisms and risk management processes as provided for in this Article with the supervisory review processes as provided for by Article 97 of Directive 2013/36/EU and Article 248 of Directive 2009/138/EC. To this end, the ⌦ ESAs ⌫ shall, through the Joint Committee, issue common guidelines aimed at the convergence of supervisory practices with regard to the application of supplementary supervision of internal control mechanisms and risk management processes as provided for in this Article, as well as on the consistency with the supervisory review processes as provided for by Article 97 of Directive 2013/36/EU and Article 248 of Directive 2009/138/EC. They shall issue specific common guidelines for the application of this Article to participations of the financial conglomerate, in cases where national company law provisions obstruct the application of Article 18(2) of this Directive.

↓ 2002/87/EC

SECTION 3

↓ 2010/78/EU Art. 2, pt. 3

MEASURES TO FACILITATE SUPPLEMENTARY SUPERVISION AND POWERS OF THE JOINT COMMITTEE

↓ 2010/78/EU Art. 2, pt. 4

Article 10

Role of the Joint Committee

The Joint Committee shall, in accordance with Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively, ensure coherent cross-sectoral and cross-border supervision and compliance with Union legislation.

↓ 2011/89/EU Art. 2, pt. 9 (adapted)

Article 11

Stress testing

1. Member States may require that the coordinator ensure appropriate and regular stress testing of financial conglomerates. They shall require the relevant competent authorities to cooperate fully with the coordinator.

2. For the purpose of Union-wide stress tests the ⌦ ESAs ⌫ may, through the Joint Committee and in cooperation with the European Systemic Risk Board, established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council[21], develop supplementary parameters that capture the specific risks associated with financial conglomerates, in accordance with ⌦ Regulations ⌫ (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010. The coordinator shall communicate the results of the stress tests to the Joint Committee.

[21] Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on the European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1, ELI: http://data.europa.eu/eli/reg/2010/1092/o).

↓ 2002/87/EC

Article 12

Competent authority responsible for exercising supplementary supervision (the coordinator)

↓ 2010/78/EU Art. 2, pt. 5

1. In order to ensure adequate supplementary supervision of the regulated entities in a financial conglomerate, a single coordinator, responsible for coordination and exercise of supplementary supervision, shall be appointed from among the competent authorities of the Member States concerned, including those of the Member State in which the mixed financial holding company has its head office. The identity of the coordinator shall be published on the Joint Committee's website.

↓ 2002/87/EC

2. The appointment shall be based on the following criteria:

(a) where a financial conglomerate is headed by a regulated entity, the task of coordinator shall be exercised by the competent authority which has authorised that regulated entity pursuant to the relevant sectoral rules;

(b) where a financial conglomerate is not headed by a regulated entity, the task of coordinator shall be exercised by the competent authority identified in accordance with the following principles:

(i) where the parent of a regulated entity is a mixed financial holding company, the task of coordinator shall be exercised by the competent authority which has authorised that regulated entity pursuant to the relevant sectoral rules;

↓ 2011/89/EU Art. 2, pt. 10(a)

(ii) where at least two regulated entities which have their registered office in the Union have as their parent the same mixed financial holding company, and one of those entities has been authorised in the Member State in which the mixed financial holding company has its head office, the task of coordinator shall be exercised by the competent authority of the regulated entity authorised in that Member State;

↓ 2002/87/EC (adapted)

where more than one regulated entity, being active in different financial sectors, have been authorised in the Member State in which the mixed financial holding company has its head office, the task of coordinator shall be exercised by the competent authority of the regulated entity active in the most important financial sector;

where the financial conglomerate is headed by more than one mixed financial holding company with a head office in different Member States and there is a

regulated entity in each of these ⌦ Member ⌫ States, the task of coordinator shall be exercised by the competent authority of the regulated entity with the largest balance sheet total if these entities are in the same financial sector, or by the competent authority of the regulated entity in the most important financial sector;

↓ 2011/89/EU Art. 2, pt. 10(b)

(iii) where at least two regulated entities which have their registered office in the Union have as their parent the same mixed financial holding company and none of those entities has been authorised in the Member State in which the mixed financial holding company has its head office, the task of coordinator shall be exercised by the competent authority which authorised the regulated entity with the largest balance sheet total in the most important financial sector;

↓ 2002/87/EC (adapted)

(iv) where the financial conglomerate is a group without a parent undertaking at the top, or in any other case, the task of coordinator shall be exercised by the competent authority which authorised the regulated entity with the largest balance sheet total in the most important financial sector.

3. In particular cases, the relevant competent authorities may by common agreement waive the criteria ⌦ laid down ⌫ in paragraph 2 if their application would be inappropriate, taking into account the structure of the conglomerate and the relative importance of its activities in different countries, and appoint a different competent authority as coordinator. In these cases, before taking their decision, the competent authorities shall give the conglomerate an opportunity to state its opinion on that decision.

Article 13

Tasks of the coordinator

1. The tasks to be carried out by the coordinator with regard to supplementary supervision shall include:

(a) coordination of the gathering and dissemination of relevant or essential information in going concern and emergency situations, including the dissemination of information which is of importance for a competent authority's supervisory task under sectoral rules;

(b) supervisory overview and assessment of the financial situation of a financial conglomerate;

(c) assessment of compliance with the rules on capital adequacy and of risk concentration and intra-group transactions as ⌦ provided for ⌫ in Articles 6, 7 and 8;

(d) assessment of the financial conglomerate's structure, organisation and internal control system as ⌦ provided for ⌫ in Article 9;

(e) planning and coordination of supervisory activities in going concern as well as in emergency situations, in cooperation with the relevant competent authorities involved;

(f) other tasks, measures and decisions assigned to the coordinator by this Directive or deriving from the application of this Directive.

↓ 2010/78/EU Art. 2, pt. 6 (adapted)

In order to facilitate and establish supplementary supervision on a broad legal basis, the coordinator, and the other relevant competent authorities, and, where necessary, the other competent authorities concerned, shall have coordination arrangements in place. The coordination arrangements may entrust additional tasks to the coordinator and may specify the procedures for the decision-making process among the relevant competent authorities as referred to in Articles 3 and 4, Article 5(4), Article 6, Article 14(2) and Articles 20 and 22, and for cooperation with other competent authorities.

In accordance with Article 8 and the procedure ⌦ laid down ⌫ in Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively, the ⌦ ESAs ⌫, through the Joint Committee, shall develop ⌦ common ⌫ guidelines aimed at the convergence of supervisory practices with regard to the consistency of supervisory coordination arrangements in accordance with Article 116 of Directive 2013/36/EU and Article 248(4) of Directive 2009/138/EC.

↓ 2002/87/EC (adapted)

2. The coordinator ⌦ shall ⌫, when it needs information which has already been given to another competent authority in accordance with the sectoral rules, contact ⌦ that ⌫ authority whenever possible in order to prevent duplication of reporting to the various authorities involved in supervision.

↓ 2011/89/EU Art. 2, pt. 11(a)

3. Without prejudice to the possibility of delegating specific supervisory competences and responsibilities as provided for by Union legislative acts, the presence of a coordinator entrusted with specific tasks concerning the supplementary supervision of regulated entities in a financial conglomerate shall not affect the tasks and responsibilities of the competent authorities as provided for by the sectoral rules.

↓ 2011/89/EU Art. 2, pt. 11(b)

4. The required cooperation under this Section and the exercise of the tasks listed in paragraphs 1, 2 and 3 of this Article and in Article 14 and, subject to confidentiality requirements and Union law, the appropriate coordination and cooperation with relevant third country supervisory authorities, where appropriate, shall be fulfilled through colleges established pursuant to Article 116 of Directive 2013/36/EU or Article 248(2) of Directive 2009/138/EC.

The coordination arrangements referred to in paragraph 1, second subparagraph, shall be separately reflected in the written coordination arrangements in place pursuant to Article 115 of Directive 2013/36/EU or Article 248 of Directive 2009/138/EC. The coordinator, as Chair of a college established pursuant to Article 116 of Directive 2013/36/EU or Article 248(2) of Directive 2009/138/EC, shall decide which other competent authorities participate in a meeting or in any activity of that college.

↓ 2002/87/EC (adapted)

Article 14

Cooperation and exchange of information between competent authorities

1. The competent authorities responsible for the supervision of regulated entities in a financial conglomerate and the competent authority appointed as the coordinator for that financial conglomerate shall cooperate closely with each other. Without prejudice to their respective responsibilities as defined under sectoral rules, ⌦ those ⌫ authorities, whether or not established in the same Member State, shall provide one another with any information which is essential or relevant for the exercise of the other authorities' supervisory tasks under the sectoral rules and this Directive. In ⌦ that ⌫ regard, the competent authorities and the coordinator shall communicate on request all relevant information and shall communicate on their own initiative all essential information.

⌦ That ⌫ cooperation shall at least provide for the gathering and the exchange of information with regard to the following items:

↓ 2011/89/EU Art. 2, pt. 12

(a) identification of the group's legal structure and the governance and organisational structure, including all regulated entities, non-regulated subsidiaries and significant branches belonging to the financial conglomerate, the holders of qualifying holdings at the ultimate parent level, as well as of the competent authorities of the regulated entities in the group;

↓ 2002/87/EC

(b) the financial conglomerate's strategic policies;

(c) the financial situation of the financial conglomerate, in particular on capital adequacy, intra-group transactions, risk concentration and profitability;

(d) the financial conglomerate's major shareholders and management;

(e) the organisation, risk management and internal control systems at financial conglomerate level;

(f) procedures for the collection of information from the entities in a financial conglomerate, and the verification of that information;

(g) adverse developments in regulated entities or in other entities of the financial conglomerate which could seriously affect the regulated entities;

(h) major sanctions and exceptional measures taken by competent authorities in accordance with sectoral rules or this Directive.

↓ 2010/78/EU Art. 2, pt. 7 (adapted)

The competent authorities may also ⌦ , in accordance with Article 15 of Regulation (EU) No 1092/2010, ⌫ exchange with the following authorities such information as may be

needed for the performance of their respective tasks, regarding regulated entities in a financial conglomerate, in line with the provisions laid down in the sectoral rules: ⌦ the ⌫ central banks, the European System of Central Banks, the European Central Bank and the European Systemic Risk Board.

↓ 2002/87/EC (adapted)

2. Without prejudice to their respective responsibilities as defined under sectoral rules, the competent authorities concerned shall, prior to their decision, consult each other with regard to the following items, where these decisions are of importance for other competent authorities' supervisory tasks:

(a) changes in the shareholder, organisational or management structure of regulated entities in a financial conglomerate, which require the approval or authorisation of competent authorities;

(b) major sanctions or exceptional measures taken by competent authorities.

A competent authority may decide not to consult in cases of urgency or where such consultation may jeopardise the effectiveness of the decisions. In ⌦ that ⌫ case, the competent authority shall, without delay, inform the other competent authorities.

3. The coordinator may invite the competent authorities of the Member State in which a parent undertaking has its head office, and which do not themselves exercise the supplementary supervision pursuant to Article 12, to ask the parent undertaking for any information which would be relevant for the exercise of its coordination tasks as laid down in Article 13, and to transmit that information to the coordinator.

Where the information referred to in Article 18(2) has already been given to a competent authority in accordance with sectoral rules, the competent authorities responsible for exercising supplementary supervision may apply to the first-mentioned authority to obtain the information.

4. Member States shall authorise the exchange of information between their competent authorities and between their competent authorities and other authorities, as referred to in paragraphs 1, 2 and 3. The collection or possession of information with regard to an entity within a financial conglomerate which is not a regulated entity shall not in any way imply that the competent authorities are required to play a supervisory role in relation to these entities on a stand-alone basis.

Information received in the framework of supplementary supervision, and in particular any exchange of information between competent authorities and between competent authorities and other authorities which is provided for in this Directive, shall be subject to the provisions on professional secrecy and communication of confidential information laid down in the sectoral rules.

↓ 2010/78/EU Art. 2, pt. 8 (adapted)

Article 15

Cooperation and exchange of information with the Joint Committee

1. The competent authorities shall cooperate with the Joint Committee for the purposes of this Directive, in accordance with ⌦ Regulations ⌫ (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010.

2. The competent authorities shall without delay provide the Joint Committee with all information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

↓ 2011/89/EU Art. 2, pt. 13

3. The coordinators shall provide the Joint Committee with the information referred to in Article 9(4) and Article 14(1), second subparagraph, point (a). The Joint Committee shall make available to the competent authorities information regarding the legal structure and the governance and organisational structure of financial conglomerates.

↓ 2011/89/EU Art. 2, pt. 14 (adapted)

Article 16

Common guidelines

1. The ⌦ ESAs ⌫ shall, through the Joint Committee, develop common guidelines on how risk-based assessments of financial conglomerates are to be conducted by the competent authority. Those guidelines shall, in particular, ensure that risk-based assessments include appropriate tools in order to assess group risks posed to the financial conglomerates.

2. The ⌦ ESAs ⌫ shall, through the Joint Committee, issue common guidelines aimed at developing supervisory practices allowing for supplementary supervision of mixed financial holding companies to appropriately complement the group supervision under Directive 2009/138/EC or, as appropriate, consolidated supervision under Directive 2013/36/EU. Those guidelines shall allow all relevant risks to be incorporated in the supervision, while eliminating potential supervisory and prudential overlaps.

↓ 2002/87/EC

Article 17

Management body of mixed financial holding companies

Member States shall require that persons who effectively direct the business of a mixed financial holding company are of sufficiently good repute and have sufficient experience to perform those duties.

Article 18

Access to information

↓ 2010/78/EU Art. 2, pt. 9 (adapted)

1. Member States shall ensure that there are no legal impediments within their jurisdiction preventing the natural and legal persons included within the scope of supplementary supervision, whether or not a regulated entity, from exchanging with each other any information which would be relevant for the purposes of supplementary supervision and from exchanging information in accordance with this Directive and with the ⌦ ESAs ⌫ in accordance with Article 35 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively, where necessary through the Joint Committee.

↓ 2002/87/EC

2. Member States shall provide that, when approaching the entities in a financial conglomerate, whether or not a regulated entity, either directly or indirectly, their competent authorities responsible for exercising supplementary supervision shall have access to any information which would be relevant for the purposes of supplementary supervision.

Article 19

Verification

Where, in applying this Directive, competent authorities wish in specific cases to verify the information concerning an entity, whether or not regulated, which is part of a financial conglomerate and is situated in another Member State, they shall ask the competent authorities of that other Member State to have the verification carried out.

The authorities which receive such a request shall, within the framework of their competences, act upon it either by carrying out the verification themselves, by allowing an auditor or expert to carry it out, or by allowing the authority which made the request to carry it out itself.

The competent authority which made the request may, if it so wishes, participate in the verification when it does not carry out the verification itself.

Article 20

Enforcement measures

If the regulated entities in a financial conglomerate do not comply with the requirements referred to in Articles 6 to 9 or where the requirements are met but solvency may nevertheless be jeopardised or where the intra-group transactions or the risk concentrations are a threat to the regulated entities' financial position, the necessary measures shall be required in order to rectify the situation as soon as possible:

(a) by the coordinator with respect to the mixed financial holding company;

(b) by the competent authorities with respect to the regulated entities; to that end, the coordinator shall inform those competent authorities of its findings.

↓ 2010/78/EU Art. 2, pt. 10 (adapted)

Without prejudice to Article 21(2), Member States may determine what measures may be taken by the competent authorities with respect to mixed financial holding companies. In accordance with Articles 16 and 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively, the ⌦ ESAs ⌫, through the Joint Committee, may develop guidelines for measures in relation to mixed financial holding companies.

↓ 2002/87/EC

The competent authorities involved, including the coordinator, shall where appropriate coordinate their supervisory actions.

Article 21

Additional powers of the competent authorities

1. Pending further harmonisation between sectoral rules, the Member States shall provide that their competent authorities shall have the power to take any supervisory measure deemed necessary in order to avoid or to deal with the circumvention of sectoral rules by regulated entities in a financial conglomerate.

2. Without prejudice to their criminal law provisions, Member States shall ensure that penalties or measures aimed at ending observed breaches or the causes of such breaches may be imposed on mixed financial holding companies, or their effective managers, which infringe laws, regulations or administrative provisions enacted to implement this Directive. In certain cases, such measures may require the intervention of the courts. The competent authorities shall cooperate closely to ensure that such penalties or measures produce the desired results.

SECTION 4

THIRD COUNTRIES

Article 22

↓ 2011/89/EU Art. 2, pt. 15(a)

Parent undertakings in a third country

↓ 2010/78/EU Art. 2, pt. 11(a) (adapted)

1. Without prejudice to the sectoral rules, where Article 5(3) applies, the competent authorities shall verify whether the regulated entities the parent undertaking of which has its head office in a third country are subject to supervision by that third country's competent authority, which is equivalent to that provided for by this Directive on the supplementary supervision of regulated entities referred to in Article 5(2). The verification shall be carried out by the competent authority which would be the coordinator if the criteria ⌦ laid

down ⌫ in Article 12(2) were to apply, on the request of the parent undertaking or of any of the regulated entities authorised in the Union or on its own initiative.

That competent authority shall consult the other relevant competent authorities, and shall make every effort to comply with any applicable guidelines prepared through the Joint Committee in accordance with Articles 16 and 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

↓ 2010/78/EU Art. 2, pt. 11(b) (adapted)

2. Where a competent authority disagrees with the decision taken by another relevant competent authority under paragraph 1 ⌦ of this Article ⌫ , Article 19 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively shall apply.

↓ 2002/87/EC (adapted)

3. In the absence of equivalent supervision referred to in paragraph 1 ⌦ of this Article ⌫, Member States shall apply to the regulated entities, by analogy, the provisions concerning the supplementary supervision of regulated entities referred to in Article 5(2). As an alternative, competent authorities may apply one of the methods set out in paragraph 4 ⌦ of this Article ⌫ .

↓ 2011/89/EU Art. 2, pt. 15(b)

4. Competent authorities may apply other methods which ensure appropriate supplementary supervision of the regulated entities in a financial conglomerate. Those methods shall be agreed by the coordinator, after consulting the other relevant competent authorities. The competent authorities may in particular require the establishment of a mixed financial holding company which has its head office in the Union, and apply this Directive to the regulated entities in the financial conglomerate headed by that holding company. The competent authorities shall ensure that those methods achieve the objective of supplementary supervision under this Directive and shall notify the other competent authorities involved and the Commission thereof.

↓ 2011/89/EU Art. 2, pt. 16

Article 23

Cooperation with third-country competent authorities

Article 48(1) and (2) of Directive 2013/36/EU and Article 264 of Directive 2009/138/EC shall apply *mutatis mutandis* to the negotiation of agreements with one or more third countries regarding the means of exercising supplementary supervision of regulated entities in a financial conglomerate.

↓ 2002/87/EC

CHAPTER III

↓ 2011/89/EU Art. 2, pt. 17

DELEGATED ACTS AND IMPLEMENTING MEASURES

↓ 2011/89/EU Art. 2, pt. 18 (adapted)

Article 24

Powers conferred on the Commission

The Commission ⌦ is ⌫ empowered to adopt delegated acts in accordance with Article 28 concerning the technical adaptations to be made to this Directive in the following areas:

(a) a more precise formulation of the definitions laid down in Article 2 in order to take account of developments in financial markets for the application of this Directive;

(b) the alignment of terminology and the framing of definitions in this Directive in accordance with subsequent Union acts on regulated entities and related matters;

(c) a more precise definition of the calculation methods ⌦ laid down ⌫ in Annex I in order to take account of developments on financial markets and prudential techniques.

Those measures shall not include the subject matter of the power delegated to and conferred on the Commission with regard to the items listed in Article 26.

↓ 2002/87/EC (adapted)

Article 25

⌦ Financial Conglomerates ⌫ Committee

1. The Commission shall be assisted by a Financial Conglomerates Committee.

↓ 2010/78/EU Art. 2, pt.14(a) (adapted)

2. The ⌦ ESAs ⌫, through the Joint Committee, may provide ⌦ common ⌫ guidelines as to whether the supplementary supervision arrangements of competent authorities in third countries are likely to achieve the objectives of the supplementary supervision as defined in this Directive, in relation to the regulated entities in a financial conglomerate, the head of which has its head office in a third country. The Joint Committee shall keep any such guidelines under review and take into account any changes to the supplementary supervision carried out by such competent authorities.

↓ 2002/87/EC (adapted)

3. The ⌦ Financial Conglomerates ⌫ Committee shall be kept informed by Member States of the principles they apply concerning the supervision of intra-group transactions and risk concentration.

↓ 2010/78/EU Art. 2, pt. 15 (adapted)

Article 26

Technical standards

1. In order to ensure consistent harmonisation of this Directive, the ⌦ ESAs ⌫, in accordance with Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively, may develop draft regulatory technical standards with regard to:

(a) Article 2, first paragraph, point (12), in order to specify the application of Article 2, point (2), of Directive 2013/34/EU in the context of this Directive;

(b) Article 2, first paragraph, point (19), in order to establish procedures or specify criteria for the determination of 'relevant competent authorities';

(c) Article 3(4), in order to specify the alternative parameters for the identification of a financial conglomerate;

↓ 2011/89/EU Art. 2, pt. 20(a)

(d) Article 6(2), in order to ensure a uniform format (with instructions) for, and determine the frequency of and, where appropriate, the dates for reporting.

↓ 2010/78/EU Art. 2, pt. 15 (adapted)

The Commission ⌦ is empowered ⌫ to adopt the regulatory technical standards referred to in the first subparagraph ⌦ of this paragraph ⌫ in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

↓ 2011/89/EU Art. 2, pt. 20(b) (adapted)

2. In order to ensure consistent application of Articles 2, 7 and 8 and Annex II, ⌦ ESAs ⌫ shall, through the Joint Committee, develop draft regulatory technical standards to establish a more precise formulation of the definitions ⌦ laid down ⌫ in Article 2 and to coordinate the provisions adopted pursuant to Articles 7 and 8 and Annex II.

The Commission ⌦ is empowered ⌫ to adopt the regulatory technical standards referred to in the first subparagraph ⌦ of this paragraph ⌫ in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

↓ 2010/78/EU Art. 2, pt. 15 (adapted)

3. In order to ensure uniform conditions of application of this Directive, the ⌦ ESAs ⌫, in accordance with Articles 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively, may develop draft implementing technical standards with regard to:

(a) Article 7(2), in order to ensure uniform conditions of application of the procedures for including the items within the scope of the definition of 'risk concentrations' in the supervisory overview referred to in Article 7(2), second subparagraph;

(b) Article 8(2), in order to ensure uniform conditions of application of the procedures for including the items within the scope of the definition of 'intra group transactions' in the supervisory overview referred to in Article 8(2), third subparagraph.

The Commission ⌦ shall ⌫ adopt the implementing technical standards referred to in the first subparagraph ⌦ of this paragraph. Those implementing acts shall be adopted ⌫ in accordance with Article 15 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

↓ 2013/36/EU Art. 150, pt. b (adapted)

4. In order to ensure consistent application of the calculation methods listed in Part II of Annex I to this Directive, in conjunction with Article 49(1) of Regulation (EU) No 575/2013 and Article 228(1) of Directive 2009/138/EC, but without prejudice to Article 6(4) of this Directive, the ESAs shall, through the Joint Committee, develop draft regulatory technical standards with regard to Article 6(2) of this Directive.

The Commission ⌦ is empowered ⌫ to adopt the regulatory technical standards referred to in the first subparagraph ⌦ of this paragraph ⌫ in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

↓ 2011/89/EU Art. 2, pt. 21 (adapted)

Article 27

Common Guidelines

The ⌦ ESAs ⌫ shall, through the Joint Committee, issue the common guidelines referred to in Article 3(9), Article 7(5), Article 8(5), Article 9(6), Article 13(1), third subparagraph, Article 16 and Article 25(2) in accordance with the procedure laid down in Article 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.

Article 28

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power ⌦ to adopt delegated acts ⌫ referred to in Article 24 shall be conferred on the Commission for a period of four years from 9 December 2011. The Commission shall draw up a report in respect of the ⌦ delegation of ⌫ power ⌦ not later than ⌫ six months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 24 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or ⌦ at ⌫ a later date specified therein. It shall not affect the validity of any delegated acts already in force.

⌦ 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. ⌫

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 24 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or ⌦ of ⌫ the Council.

↓ 2002/87/EC (adapted)

CHAPTER IV

ASSET MANAGEMENT COMPANIES ⌦ , ALTERNATIVE INVESTMENT FUND MANAGERS AND ACCESSIBILITY OF INFORMATION ON THE EUROPEAN SINGLE ACCESS POINT ⌫

Article 29

Asset management companies

↓ 2011/89/EU Art. 2, pt. 22 (adapted)

1. Pending further coordination of sectoral rules, Member States shall provide for the inclusion of asset management companies:

(a) within the scope of consolidated supervision of credit institutions and investment firms, or ⌦ within ⌫ the scope of supplementary supervision of insurance undertakings in an insurance group;

(b) where the group is a financial conglomerate, ⌦ within ⌫ the scope of supplementary supervision within the meaning of this Directive;

(c) within the identification process in accordance with Article 3(2).

↓ 2002/87/EC (adapted)

2. For the application of paragraph 1, Member States shall ⌦ determine ⌫, or give their competent authorities the power to decide, according to which sectoral rules (banking sector, insurance sector or investment services sector) asset management companies shall be included in the consolidated or supplementary supervision referred to in paragraph 1, point (a). For the purposes of this ⌦ paragraph ⌫, the relevant sectoral rules regarding the form and extent of the inclusion of financial institutions (where asset management companies are included ⌦ within ⌫ the scope of consolidated supervision of credit institutions and investment firms) and of reinsurance undertakings (where asset management companies are included ⌦ within ⌫ the scope of supplementary supervision of insurance undertakings) shall apply *mutatis mutandis* to asset management companies. For the purposes of ⌦ the ⌫ supplementary supervision referred to in paragraph 1, point (b), the asset management company shall be treated as part of whichever sector it is included in by virtue of paragraph 1, point (a).

Where an asset management company is part of a financial conglomerate, any reference to the notion of regulated entity and any reference to the notion of competent authorities and relevant competent authorities shall therefore, for the purposes of this Directive, be understood as including, respectively, asset management companies and the competent authorities responsible for the supervision of asset management companies. This applies *mutatis mutandis* as regards groups ⌦ as ⌫ referred to in paragraph 1, point (a).

↓ 2011/89/EU Art. 2, pt. 23 (adapted)

Article 30

Alternative investment fund managers

1. Pending further coordination of sectoral rules, Member States shall provide for the inclusion of alternative investment fund managers:

(a) within the scope of consolidated supervision of credit institutions and investment firms, or within the scope of supplementary supervision of insurance undertakings in an insurance group;

(b) where the group is a financial conglomerate, within the scope of supplementary supervision within the meaning of this Directive;

(c) within the identification process in accordance with Article 3(2).

2. For the application of paragraph 1, Member States shall determine, or give their competent authorities the power to decide, according to which sectoral rules (banking sector, insurance sector or investment services sector) alternative investment fund managers ⌦ shall ⌫ be included in the consolidated or supplementary supervision referred to in paragraph 1, point (a). For the purposes of this paragraph, the relevant sectoral rules regarding the form and extent of the inclusion of financial institutions shall apply *mutatis mutandis* to alternative investment fund managers. For the purposes of ⌦ the ⌫ supplementary supervision referred to in paragraph 1, point (b), the alternative investment fund manager shall be treated as part of whichever sector it is included in by virtue of paragraph 1, point (a).

Where an alternative investment fund manager is part of a financial conglomerate, references to regulated entities and to competent and relevant competent authorities shall therefore, for the purposes of this Directive, be understood as including, respectively, alternative investment fund managers and the competent authorities responsible for the supervision of alternative investment fund managers. This applies *mutatis mutandis* as regards groups as referred to in paragraph 1, point (a).

↓ (EU) 2023/2864 Art. 1

Article 31

Accessibility of information on the European Single Access Point

1. From 10 January 2030, Member States shall ensure that, when publicly disclosing any information referred to in Article 9(4) of this Directive, regulated entities submit that information at the same time to the collection body referred to in paragraph 3 of this Article for the purpose of making it accessible on the European single access point (ESAP) established under Regulation (EU) 2023/2859 of the European Parliament and of the Council[22].

[22] Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available

Member States shall ensure that the information complies with the following requirements:

(a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859 or, where required by Union law, in a machine-readable format, as defined in Article 2, point (4), of that Regulation;

(b) be accompanied by the following metadata:

(i) all the names of the regulated entity to which the information relates;

(ii) the legal entity identifier of the regulated entity, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;

(iii) the size of the regulated entity by category, as specified pursuant to Article 7(4), point (d), of that Regulation;

(iv) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;

(v) an indication of whether the information contains personal data.

2. For the purposes of paragraph 1, point (b)(ii), Member States shall require regulated entities to obtain a legal entity identifier.

3. For the purpose of making the information referred to in paragraph 1 of this Article accessible on ESAP, the collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be the competent authority.

4. For the purpose of ensuring the efficient collection and management of information submitted in accordance with paragraph 1, ESMA shall develop draft implementing technical standards to specify the following:

(a) any other metadata to accompany the information;

(b) the structuring of data in the information;

(c) for which information a machine-readable format is required and, in such cases, which machine-readable format is to be used.

For the purposes of point (c), ESMA shall assess the advantages and disadvantages of different machine-readable formats and conduct appropriate field tests.

ESMA shall submit those draft implementing technical standards to the Commission.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

5. Where necessary, ESMA shall adopt guidelines to ensure that the metadata submitted in accordance with paragraph 4, first subparagraph, point (a), are correct.

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information of relevance to financial services, capital markets and sustainability (OL L 2023/2859, 20.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2859/oj).

↓ 2002/87/EC

CHAPTER V

FINAL PROVISIONS

Article 32

Report by the Commission

↓ (EU) 2025/2 Art. 3

By 31 December 2027, the Commission shall in a report to the European Parliament and the Council assess the functioning of this Directive and Directive 2009/138/EC on the aspects listed below, in particular taking into account the prudential treatment of cross-sectoral participation ownerships under sectoral rules, in terms of a level playing field:

(a) whether the fact that there are financial services undertakings that are subject to financial supervision under sectoral rules, but are not listed in any of the financial sectors identified in this Directive, creates an uneven playing field among financial conglomerates;

(b) whether all financial conglomerates implement rules governing capital adequacy requirements, including those set out in Commission Delegated Regulation (EU) No 342/2014[23], in a consistent manner, and whether those rules impose comparable overall quantitative requirements to financial conglomerates, irrespective of whether the main financial sector of the financial conglomerate is the banking sector, the insurance sector or the investment services sector;

(c) whether the supervisory review processes, and the allocation of mandates and enforcement powers between coordinators and sectoral supervisors, in particular as regards capital adequacy requirements, are sufficiently clear and harmonised to ensure that capital adequacy requirements are effectively enforced in a consistent manner throughout the Union, irrespective of the main financial sector in which a financial conglomerate operates;

(d) whether the absence of identification of an undertaking that is ultimately responsible for complying with this Directive poses issues with regard to ensuring a level playing field.

[23] Commission Delegated Regulation (EU) No 342/2014 of 21 January 2014 supplementing Directive 2002/87/EC of the European Parliament and of the Council and Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the application of the calculation methods of capital adequacy requirements for financial conglomerates (OJ L 100, 3.4.2014, p. 1, ELI:http://data.europa.eu/eli/reg_del/2014/342/oj).

↓

Article 33

Repeal

Directive 2002/87/EC, as amended by the Directives listed in Part A of Annex III, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law and the dates of application of the Directives set out in Part B of Annex III.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex IV.

↓ 2002/87/EC (adapted)

Article 34

Entry into force

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

Article 35

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*