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Commission Implementing Regulation (EU) No 620/2014 of 4 June 2014 laying down implementing technical standards with regard to information exchange between competent authorities of home and host Member States, according to Directive 2013/36/EU of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 620/2014

of 4 June 2014

laying down implementing technical standards with regard to information exchange between competent authorities of home and host Member States, according to Directive 2013/36/EU of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[(1)], and in particular to Article 50(7) thereof,

Whereas:

(1) In order to ensure efficient and timely cooperation between competent authorities of home and host Member States information exchange should be two-way, within the respective supervisory competences of those authorities. Standard forms, templates and operating procedures, including timelines, should therefore be established for the exchange of information during going concern situations and liquidity stress situations. Harmonised frequencies and maximum remittance dates for the information to be exchanged on a regular basis should also be established, providing for information to be exchanged on a bi-annual or annual basis. To ensure that the most up-to-date information is exchanged, competent authorities should nevertheless exchange information as early as is practicable without waiting until the expiry of maximum remittance dates.

(2) Without prejudice to procedures for standard information exchange established in this Regulation, competent authorities of home or host Member States should inform each other without undue delay about any potential situation affecting the financial stability or functioning of a branch and provide all essential and relevant information regarding that situation.

(3) Given the differences in size, complexity and significance of branches operating in host Member States, it is important to apply the principle of proportionality in the exchange of information. To this end, the need for competent authorities in host Member States to receive a more extensive range of information where these authorities are

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responsible for branches identified as significant in accordance with Article 51 of Directive 2013/36/EU should be reflected in the forms, templates and frequencies used for exchanging this information.

(4) To ensure an efficient transmission of information to the relevant persons as well as the confidentiality of the information, the competent authorities should establish, share and regularly update lists of contact persons.

(5) Information exchange between competent authorities of home and host Member States is not limited to the types of information specified in Article 50 of Directive 2013/36/EU, and therefore to the types of information specified in this Regulation. In particular, Directive 2013/36/EU sets out provisions for exchange of information regarding on-the-spot verification of branches, notifications of the exercise of the right of establishment and freedom to provide services, and measures, including precautionary ones, taken by competent authorities in relation to branches and their parent undertakings. This Regulation should therefore not set out requirements for exchange of information in those areas.

(6) Standard forms, templates and procedures should also address exchanges of information in relation to the carrying out of activities in a host Member State by way of the provision of cross border services.

(7) Given the nature of cross-border services, competent authorities of host Member States are confronted with a lack of information regarding operations being conducted in their jurisdictions, and it is essential to establish procedures for sharing information for the purposes of safeguarding financial stability and monitoring conditions of authorisations, in particular monitoring whether the institution provides services in accordance with the notifications provided. Despite the importance of such information, given the need to avoid potential burden in collecting and disseminating this to all competent authorities of host Member States, the information should be provided following a request from the competent authorities of host Member States rather than be shared on a regular basis.

(8) Given the fact that the type of information to be exchanged between competent authorities is detailed in Commission Delegated Regulation (EU) No 524/2014[(2)], this Implementing Regulation should be considered as the necessary corollary of Delegated Regulation (EU) No 524/2014.

(9) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.

(10) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(3)],

HAS ADOPTED THIS REGULATION:

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Article 1

Subject matter

This Regulation establishes standard forms, templates and procedures for the information sharing requirements which are likely to facilitate the monitoring of institutions which operate, through a branch or in the exercise of the freedom to provide services, in one or more Member States other than that in which their head offices are situated.

This Regulation applies in relation to the information provided for in Delegated Regulation (EU) No 524/2014.

Article 2

Remittance date and frequency of information exchanges regarding institutions operating through a branch

1 Information regarding any situations of non-compliance with legislative or regulatory requirements, the application of supervisory or other administrative measures or the imposition of administrative or criminal penalties shall be provided without undue delay and no later than 14 calendar days after the determination by the competent authorities of the non-compliance situation, of the application of the supervisory or other administrative measure, or the imposition of the administrative or criminal penalty.

2 Where a branch is considered as significant in accordance with Article 51 of Directive 2013/36/EU, quantitative information concerning liquidity and information on findings from the supervision of liquidity shall be provided by the competent authorities of the home Member State to the competent authorities of the host Member State which supervise this significant branch on a bi-annual basis and no later than the following remittance dates:

a 28 February each year on the basis of the position as on 31 December of the preceding year;

b 31 August each year on the basis of the position as on the preceding 30 June.

3 Information other than that referred to in paragraphs 1 and 2 shall be provided annually and no later than 30 April each year on the basis of the position as at the preceding 31 December, except for information regarding management and ownership of an institution, which shall be provided on the basis of the most recent information available.

Article 3

Operational procedures for the transmission of information between competent authorities

1 The competent authorities of the home Member State shall maintain and share with the competent authorities of a host Member State an up-to-date list for each institution containing the relevant contacts, including emergency contacts, for the exchange of information between the competent authorities of the home Member State and of the host Member States.

The competent authorities of host Member States shall inform the competent authorities of the home Member State of their contacts and of any changes in those contacts without

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undue delay. The competent authorities of the home Member State and of host Member States shall review the contact list each year.

2 Information shall be exchanged in written or electronic form and shall be addressed to the relevant contact persons identified in the contact list referred to in paragraph 1 unless specified otherwise by a competent authority requesting information.

3 Where information is exchanged in electronic form, secure channels of communication shall be used unless the competent authorities deem it appropriate to use unsecured channels of communication.

4 The following information may be provided orally before being confirmed in written or electronic form:

a information regarding non-compliance with legislative or regulatory requirements;

b information regarding the application of supervisory or other administrative measures;

c information regarding the imposition of administrative or criminal penalties;

d information relating to a liquidity stress situation.

5 Competent authorities shall confirm the receipt of information. Where information has been provided in electronic form using a secure channel of communication the confirmation shall be provided using the same channel. Confirmation shall not be required for information which has been provided orally or using a secure channel of communication which enables the sender to receive confirmation that the receiver has received the information.

6 Where a college of supervisors has been established in accordance with Article 51(3) of Directive 2013/36/EU and where all branches of the institution are considered as significant paragraphs 1 to 5 of this Article shall not apply. In such cases the information shall be exchanged using the procedure set out in the written arrangements referred to in Article 51(3) of Directive 2013/36/EU.

Article 4

Forms and templates to be used for information exchanges regarding institutions operating through a branch

1 Quantitative information referred to in Article 2(2) shall be exchanged using the template specified in Part 1 of Annex I and shall be provided in the form specified in that template.

2 Quantitative information regarding the liquidity and solvency of an institution other than the information referred to in paragraph 1 shall be exchanged using the template specified in Part 2 of Annex I and shall be provided in the form specified in that template.

3 Quantitative information regarding the volume of services offered through the exercise of the freedom to provide services shall be exchanged using the template specified in Part 3 of Annex I and shall be provided in the form deemed appropriate by the competent authority that provides the information.

4 Quantitative information regarding the market shares of a branch established in a host Member State shall be exchanged using the template specified in Part 4 of Annex I and shall be provided in the form deemed appropriate by the competent authority that provides the information.

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5 Non-quantitative information other than the information referred to in paragraphs 6, 7 and 8 shall be exchanged using the respective templates and shall be provided in the form deemed appropriate by the competent authority providing the information, as follows:

a the template specified in Part 2 of Annex I shall be used for information on the liquidity and solvency of an institution;

b the template specified in Part 3 of Annex I shall be used for information on cross-border provision of services;

c the template specified in Part 4 of Annex I shall be used for information on a branch established in a host Member State;

d the template specified in Part 5 of Annex I shall be used for information on deposit guarantee schemes.

6 Non-quantitative information specified in Part 6 of Annex I regarding the management and ownership of an institution, its liquidity and funding policies, liquidity and funding contingency plans and preparations for emergency situations shall be provided in the form deemed appropriate by the competent authority that provides the information. The information shall be provided as an appendix to the other information exchanged using the templates specified in Parts 1 to 5 of Annex I.

7 Information regarding any situations of non-compliance with legislative or regulatory requirements, the application of supervisory or other administrative measures or the imposition of administrative or criminal penalties as referred to in Article 2(1) shall be provided in the form deemed appropriate by the competent authority that provides the information.

8 Information regarding the identification of an institution as a global systemically important institution or as another systemically important institution within the meaning of Article 131(1) of Directive 2013/36/EU shall be provided in the form deemed appropriate by the competent authority that provides the information.

Article 5

Ad-hoc information requests of competent authorities

1 Requests for information that is not required to be exchanged pursuant to Delegated Regulation (EU) No 524/2014 shall be transmitted in written or electronic form to the relevant contact persons identified in the contact list referred to in Article 3(1) of this Regulation.

2 A competent authority making a request as referred to in paragraph 1 shall explain how the information is likely to facilitate the supervision or monitoring of an institution, the examination of the conditions for the authorisation of an institution or the protection of the stability of the financial system. That competent authority shall specify a reasonable time by which the response must be provided taking into account the nature and urgency of the request and information requested.

3 A competent authority receiving a request referred to in paragraph 1 shall provide the information without undue delay and shall make every effort to respond by the time indicated in the request. If that competent authority is unable to reply by the time indicated in the request it shall inform the competent authority making the request without undue delay of the time by which it will provide the information.

If the requested information is not available, the competent authority receiving a request referred to in paragraph 1 shall accordingly inform the competent authority making the request.