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*Committee on Economic and Monetary Affairs*

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**2010/0232(COD)**

6.12.2010

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council amending Directives 98/78/EC, 2002/87/EC and 2006/48/EC as regards the supplementary supervision of financial entities in a financial conglomerate (COM(2010)0433 – C7-0203/2010 – 2010/0232(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Theodor Dumitru Stolojan

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directives 98/78/EC, 2002/87/EC and 2006/48/EC as regards the supplementary supervision of financial entities in a financial conglomerate (COM(2010)0433 – C7-0203/2010 – 2010/0232(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0433),
  - having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0203/2010),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs (A7-0000/2010),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a directive – amending act Title**

*Text proposed by the Commission*

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 98/78/EC, 2002/87/EC **and** 2006/48/EC as regards the supplementary supervision of financial entities in a financial conglomerate

*Amendment*

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC **and 2009/138/EC** as regards the supplementary supervision of financial entities in a financial conglomerate

Or. en

## Amendment 2

### Proposal for a directive – amending act Recital 2

#### *Text proposed by the Commission*

(2) It is appropriate to ensure consistency **with** the aim of Directive 2002/87/EC and 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<sup>1</sup>** of the European Parliament and of the Council, to enable **supervision of insurance groups as well as** appropriate supplementary supervision of insurance and **other entities within** a mixed financial holding structure. **For this reason, Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance and reinsurance undertakings in an insurance or reinsurance group<sup>2</sup> should be amended to define and include mixed financial holding companies. In order to ensure timely coherent supervision, Directive 98/78/EC should be amended, notwithstanding the imminent application of 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) (recast)<sup>3</sup>.**

<sup>1</sup> OJ L 35, 11.2.2003, p. 1.

<sup>2</sup> OJ L 330, 5.12.1998, p. 1.

<sup>3</sup> OJ L 335, 17.12.2009, p. 1.

#### *Amendment*

(2) It is appropriate to ensure consistency **between** the aim of Directive 2002/87/EC **of the European Parliament and of the Council**, Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, and Directives 98/78/EC, **2004/39/EC<sup>1</sup>, 2006/48/EC<sup>2</sup>, 2006/49/EC<sup>3</sup> and 2009/138/EC<sup>4</sup>** of the European Parliament and of the Council, **in order** to enable appropriate supplementary supervision of insurance and **banking groups, including where they are part of** a mixed financial holding structure.

<sup>1</sup> OJ L 145, 30.4.2004, p. 1.

<sup>2</sup> OJ L 177, 30.6.2006, p. 1.

<sup>3</sup> OJ L 177, 30.6.2006, p. 201.

<sup>4</sup> OJ L 335, 17.12.2009, p. 1.

Or. en

### Amendment 3

#### Proposal for a directive – amending act Recital 3

##### *Text proposed by the Commission*

(3) It is necessary that financial conglomerates are identified throughout the **European** Union according to the extent to which they are exposed to group risks, based on common guidelines issued by the European Banking Authority **and** the European Insurance and Occupational Pensions Authority in accordance with **Article 42 of the** Regulation (EU) No ../.. establishing a European Banking Authority **and Article 42 of the** Regulation (EU) No ../.. establishing a European Insurance and Occupational Pensions Authority, following cooperation within the Joint Committee of European Supervisory Authorities. It is also important that the requirements regarding the waiving of the application of supplementary supervision are applied in a risk-based manner according to these guidelines. This is of particular importance in the case of the larger, internationally operating conglomerates.

##### *Amendment*

(3) It is necessary that financial conglomerates are identified throughout the Union according to the extent to which they are exposed to group risks, based on common guidelines issued by the **European Supervisory Authority** (European Banking Authority), the **European Supervisory Authority** (European Insurance and Occupational Pensions Authority) **and the European Supervisory Authority (European Securities and Markets Authority)** in accordance with **Article 56 of each of** Regulation (EU) No ../2010 establishing a **European Supervisory Authority** (European Banking Authority), Regulation (EU) No ../2010 establishing a **European Supervisory Authority** (European Insurance and Occupational Pensions Authority) **and Regulation (EU) No ../2010 establishing a European Supervisory Authority (European Securities and Markets Authority)**, following cooperation within 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 according to these guidelines. This is of particular importance in the case of the larger, internationally operating conglomerates.

Or. en

## Amendment 4

### Proposal for a directive – amending act Recital 4

#### *Text proposed by the Commission*

(4) The comprehensive and adequate monitoring of group risks in large, complex, internationally operating conglomerates, as well as the supervision of the group-wide capital policies of these 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 international conglomerates among the competent authorities which are regarded as most relevant for the supplementary supervision of a conglomerate. The college of a financial conglomerate's relevant competent authorities should reflect the supplementary nature of this Directive, and as such it should add value to existing colleges for the banking subgroup and the insurance subgroup in the conglomerate, without replicating, duplicating or replacing them.

#### *Amendment*

(4) The comprehensive and adequate monitoring of group risks in large, complex, internationally operating conglomerates, as well as the supervision of the group-wide capital policies of these 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 international conglomerates among the competent authorities which are regarded as most relevant for the supplementary supervision of a conglomerate ***through the Joint Committee***. The college of a financial conglomerate's relevant competent authorities should reflect the supplementary nature of this Directive, and as such it should add value to existing colleges for the banking subgroup and the insurance subgroup in the conglomerate, without replicating, duplicating or replacing them. ***It is also necessary that the legal and operational structure of financial conglomerates with cross-border activities, including all legal entities within the financial conglomerate, is tracked by the Joint Committee and made available to the relevant competent authorities, the Commission and the European Systemic Risk Board (ESRB) and, where appropriate, made public.***

Or. en



## Amendment 5

### Proposal for a directive – amending act Recital 5

#### *Text proposed by the Commission*

(5) The supplementary supervision of large, complex, internationally operating conglomerates requires coordination throughout the **European** Union, in order to contribute to the stability of the internal market for financial services. To this end, competent authorities need to agree upon the supervisory approaches applied to these conglomerates. The European Banking Authority **and** the European Insurance and Occupational Pensions Authority should issue, in accordance with **Article 42 of the Regulation (EU) No ...** establishing a European Banking Authority **and Article 42 of the Regulation (EU) No ...** establishing a European Insurance and Occupational Pensions Authority, following cooperation within the Joint Committee **of European Supervisory Authorities**, common guidelines for these common approaches, thus ensuring a comprehensive prudential framework of the supervisory tools and powers available in the banking, insurance and financial conglomerates directives. The guidelines which will be issued as provided for in this Directive must reflect the supplementary nature of this Directive, and complement the sector-specific supervision as provided for by Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, **93/6/EEC, 93/22/EEC**, 98/78/EC, **2000/12/EC**, 2004/39/EC, 2006/48/EC, 2006/49/EC and 2009/138/EC.

#### *Amendment*

(5) The supplementary supervision of large, complex, internationally operating conglomerates requires coordination throughout the Union, in order to contribute to the stability of the internal market for financial services. To this end, competent authorities need to agree upon the supervisory approaches applied to these conglomerates. The **European Supervisory Authority** (European Banking Authority), the **European Supervisory Authority** (European Insurance and Occupational Pensions Authority) **and the European Supervisory Authority (European Securities and Markets Authority)** should issue, in accordance with **Article 56 of each of Regulation (EU) No .../2010** establishing a **European Supervisory Authority** (European Banking Authority), Regulation (EU) No .../2010 establishing a **European Supervisory Authority** (European Insurance and Occupational Pensions Authority) **and Regulation (EU) No .../2010 establishing a European Supervisory Authority (European Securities and Markets Authority)** following cooperation within the Joint Committee, common guidelines for these common 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 which will be issued as provided for in this Directive must reflect the supplementary nature of this Directive, and complement the sector-specific supervision as provided for by Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 98/78/EC, 2004/39/EC, 2006/48/EC, 2006/49/EC and 2009/138/EC.

**Amendment 6****Proposal for a directive – amending act  
Recital 6***Text proposed by the Commission*

(6) There is a genuine need to monitor and control potential group risks, posed to the conglomerate, coming from participations in other companies. For those cases where the specific supervisory powers provided 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 European Banking Authority *and* the European Insurance and Occupational Pensions Authority in the forum of the Joint Committee *of the European Supervisory Authorities*. 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 group from supplementary supervision, if appropriate.

*Amendment*

(6) There is a genuine need to monitor and control potential group risks, posed to the conglomerate, coming from participations in other companies. For those cases where the specific supervisory powers provided 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 *European Supervisory Authority* (European Banking Authority), the *European Supervisory Authority* (European Insurance and Occupational Pensions Authority) *and the European Supervisory Authority (European Securities and Markets Authority)* in the forum of 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 group from supplementary supervision, if appropriate.

Or. en

**Amendment 7****Proposal for a directive – amending act  
Recital 7***Text proposed by the Commission*

(7) With regard to certain group structures, supervisors were left without powers in the current crisis since the combination of

*Amendment*

(7) With regard to certain group structures, supervisors were left without powers in the current crisis since the combination of

directives had forced them to choose either sector-specific or supplementary supervision. While a complete review of the Directive should be undertaken in the context of the G20 work on conglomerates, the necessary supervisory powers should be *restored* as soon as possible.

directives had forced them to choose either sector-specific or supplementary supervision. While a complete review of the Directive should be undertaken in the context of the G20 work on conglomerates, the necessary supervisory powers should be *provided* as soon as possible.

Or. en

## Amendment 8

### Proposal for a directive – amending act Recital 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) It is appropriate to ensure consistency with the aim of Directive 2002/87/EC and Directive 98/78/EC. For this reason, Directive 98/78/EC should be amended to define and include mixed financial holding companies. In order to ensure timely coherent supervision, Directive 98/78/EC should be amended, notwithstanding the imminent application of Directive 2009/138/EC, which should therefore be amended for the same reasons.***

Or. en

## Amendment 9

### Proposal for a directive – amending act Recital 10

*Text proposed by the Commission*

*Amendment*

(10) Directives 98/78/EC, 2002/87/EC **and** 2006/48/EC should therefore be amended accordingly,

(10) Directives 98/78/EC, 2002/87/EC, 2006/48/EC **and 2009/138/EC** should therefore be amended accordingly,

Or. en

## Amendment 10

### Proposal for a directive – amending act

#### Article 1 – point -1 (new)

Directive 98/78/EC

Article 1 – point j

*Text proposed by the Commission*

*Amendment*

*(-1) Article 1(j) is replaced by the following:*

**"(j) mixed-activity insurance holding company means a parent undertaking, other than an insurance undertaking, a non-member country insurance undertaking, a reinsurance undertaking, a non-member country reinsurance undertaking, an insurance holding company or a mixed financial holding company [...], which includes at least one insurance undertaking or a reinsurance undertaking among its subsidiary undertakings;"**

Or. en

## Amendment 11

### Proposal for a directive – amending act

#### Article 1 – point 5

Directive 98/78/EC

Article 10

*Text proposed by the Commission*

*Amendment*

(5) *Article 10(2)* is replaced by the following:

(5) *Article 10* is replaced by the following:

#### **"Article 10**

**Insurance holding companies, *mixed financial holding companies*, non-member country insurance undertakings and non-member country reinsurance undertakings**

2. In the case referred to in Article 2(2), the calculation shall include all related undertakings of the insurance holding company, the mixed financial holding company, the *non-member-country* insurance undertaking or the non-member country reinsurance undertaking, in the manner provided for in Annex II.

**1. In the case referred to in Article 2(2), Member States shall require the method of supplementary supervision to be applied in accordance with Annex II.**

2. In the case referred to in Article 2(2), the calculation shall include all related undertakings of the insurance holding company, the mixed financial holding company, the *non-member country* insurance undertaking or the non-member country reinsurance undertaking, in the manner provided for in Annex II.

**3. If, on the basis of that calculation, the competent authorities conclude that the solvency of a subsidiary insurance undertaking or a reinsurance undertaking of the insurance holding company, the *mixed financial holding company*, the non-member country insurance undertaking or the non-member country reinsurance undertaking is, or may be, jeopardised, they shall take appropriate measures at the level of that insurance undertaking or reinsurance undertaking."**

Or. en

## Amendment 12

### Proposal for a directive – amending act

#### Article 2 – point 1

Directive 2002/87/EC

Article 1 – paragraph 1

#### *Text proposed by the Commission*

This Directive lays down rules for supplementary supervision of regulated entities which have obtained an authorisation in accordance with Article 6 of Directive 73/239/EEC, Article 6 of Directive 79/267/EEC, Article 5 of Directive 2004/39/EC of the European Parliament and of the Council, Article 6 of Directive 2006/48/EC of the European

#### *Amendment*

This Directive lays down rules for supplementary supervision of regulated entities which have obtained an authorisation in accordance with Article 6 of Directive 73/239/EEC, Article 6 of Directive 79/267/EEC, Article 5 of Directive 2004/39/EC of the European Parliament and of the Council, **Article 3 of Directive 2005/68/EC of the European**

Parliament and of the Council or Article 14 of Directive 2009/138/EC of the European Parliament and of the Council and which are part of a financial conglomerate.

***Parliament and of the Council of 16 November 2005 on reinsurance<sup>1</sup>***, Article 6 of Directive 2006/48/EC of the European Parliament and of the Council or Article 14 of Directive 2009/138/EC of the European Parliament and of the Council and which are part of a financial conglomerate.

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<sup>1</sup> *OJ L 323, 9.12.2005, p. 1.*

Or. en

### **Amendment 13**

#### **Proposal for a directive – amending act**

##### **Article 2 – point 1**

Directive 2002/87/EC

Article 2 – point 1

#### *Text proposed by the Commission*

(1) ‘credit institution’ means a credit institution within the meaning of Article 4(1) of Directive 2006/48/EC;

#### *Amendment*

(1) ‘credit institution’ means a credit institution within the meaning of Article 4(1) of Directive 2006/48/EC, ***as well as an undertaking the registered office of which is outside the Union and which would require authorisation if it had its registered office within the Union;***

Or. en

### **Amendment 14**

#### **Proposal for a directive – amending act**

##### **Article 2 – point 1**

Directive 2002/87/EC

Article 2 – point 2

#### *Text proposed by the Commission*

(2) ‘insurance undertaking means an insurance undertaking within the meaning of Article 13(1) ***and*** (2) of Directive

#### *Amendment*

(2) ‘insurance undertaking means an insurance undertaking within the meaning of Article 13(1), (2) ***and*** (3) of Directive

## Amendment 15

### Proposal for a directive – amending act

#### Article 2 – point 1

Directive 2002/87/EC

Article 2 – point 3

#### *Text proposed by the Commission*

(3) ‘investment firm’ means an investment firm within the meaning of Article 4(1) (1) of Directive 2004/39/EC, including the undertakings referred to in Article 3(1)(d) of Directive 2006/49/EC;

#### *Amendment*

(3) ‘investment firm’ means an investment firm within the meaning of Article 4(1) (1) of Directive 2004/39/EC, including the undertakings referred to in Article 3(1)(d) of Directive 2006/49/EC, **as well as an undertaking the registered office of which is outside the Union and which would require authorisation if it had its registered office within the Union;**

## Amendment 16

### Proposal for a directive – amending act

#### Article 2 – point 1

Directive 2002/87/EC

Article 2 – point 5

#### *Text proposed by the Commission*

(5) ‘asset management company’ means a management company within the meaning of Article 2(1)(b) of Directive 2009/65/EC, as well as an undertaking the registered office of which is outside the **European** Union and which would require authorisation if it had its registered office within the **European** Union;

#### *Amendment*

(5) ‘asset management company’ means a management company within the meaning of Article 2(1)(b) of Directive 2009/65/EC, as well as an undertaking the registered office of which is outside the Union and which would require authorisation if it had its registered office within the Union;

## Amendment 17

### Proposal for a directive – amending act

#### Article 2 – point 1

Directive 2002/87/EC

Article 2 – point 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) ‘alternative investment fund manager’ means a manager of alternative investment funds within the meaning of Article 4(1)(c) of Directive 2011/.../EU of the European Parliament and of the Council of ... on Alternative Investment Fund Managers<sup>1</sup>;***

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<sup>1</sup> OJ ...

Or. en

## Amendment 18

### Proposal for a directive – amending act

#### Article 2 – point 1

Directive 2002/87/EC

Article 2 – point 6

*Text proposed by the Commission*

*Amendment*

(6) ‘reinsurance undertaking’ means a reinsurance undertaking within the meaning of Article 13(4) **and** (5) of Directive 2009/138/EC;

(6) ‘reinsurance undertaking’ means a reinsurance undertaking within the meaning of Article 13(4), (5), **(6) and (26)** of Directive 2009/138/EC;

Or. en

## Amendment 19

### Proposal for a directive – amending act

#### Article 2 – point 1

Directive 2002/87/EC

Article 2 – point 8 – point a



*Text proposed by the Commission*

(a) a credit institution, a financial institution or an ancillary services undertaking within the meaning of Article 4(1), (5) and (21) of Directive 2006/48/EC;

*Amendment*

(a) a credit institution, a financial institution or an ancillary services undertaking within the meaning of Article 4(1), (5) and (21) of Directive 2006/48/EC ***(hereinafter referred to collectively as "the banking sector")***;

Or. en

**Amendment 20**

**Proposal for a directive – amending act**

**Article 2 – point 1**

Directive 2002/87/EC

Article 2 – point 8 – point b

*Text proposed by the Commission*

(b) an insurance undertaking, a reinsurance undertaking or an insurance holding company within the meaning of Articles 13(1) and (2), 13(4) and (5) and 212(1)(f) of Directive 2009/138/EC;

*Amendment*

(b) an insurance undertaking, a reinsurance undertaking or an insurance holding company within the meaning of Articles 13(1) and (2), 13(4) and (5) and 212(1)(f) of Directive 2009/138/EC ***(hereinafter referred to collectively as "the insurance sector")***;

Or. en

**Amendment 21**

**Proposal for a directive – amending act**

**Article 2 – point 1**

Directive 2002/87/EC

Article 2 – point 8 – point c

*Text proposed by the Commission*

(c) an investment firm within the meaning of Article 3(1)(b) of Directive 2006/49/EC;

*Amendment*

(c) an investment firm within the meaning of Article 3(1)(b) of Directive 2006/49/EC ***(hereinafter referred to collectively as "the investment services sector")***;

## **Amendment 22**

### **Proposal for a directive – amending act**

#### **Article 2 – point 1**

Directive 2002/87/EC

Article 2 – point 15

#### *Text proposed by the Commission*

(15) ‘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 head office in the *European* Union, and other entities, constitutes a financial conglomerate;

#### *Amendment*

(15) ‘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 head office in the Union, and other entities, constitutes a financial conglomerate;

Or. en

## **Amendment 23**

### **Proposal for a directive – amending act**

#### **Article 2 – point 1**

Directive 2002/87/EC

Article 2 – point 17 – point a a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(aa) the Joint Committee of the European Supervisory Authorities (Joint Committee);***

Or. en

## **Amendment 24**

### **Proposal for a directive – amending act**

#### **Article 2 – point 2 – point a**

Directive 2002/87/EC

Article 3 – paragraph 2 – subparagraph 3

*Text proposed by the Commission*

Asset management companies within the meaning of Article 30 are added to the sector ***they belong to within the group***; if they do not belong exclusively to one sector within the group, they are added to the smallest financial sector.

*Amendment*

Asset management companies within the meaning of Article 30 are added to the ***investment services*** sector; if they do not belong exclusively to one sector within the group, they are added to the smallest financial sector.

Or. en

**Amendment 25**

**Proposal for a directive – amending act**

**Article 2 – point 2 – point a**

Directive 2002/87/EC

Article 3 – paragraph 2 – subparagraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***Alternative investment fund managers within the meaning of Article 30a are added to the investment services sector; if they do not belong exclusively to one sector within the group, they are added to the smallest financial sector.***

Or. en

**Amendment 26**

**Proposal for a directive – amending act**

**Article 2 – point 2 – point b**

Directive 2002/87/EC

Article 3 – paragraph 3 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

Decisions taken in accordance with this paragraph shall be notified to the other competent authorities concerned.

Decisions taken in accordance with this paragraph shall be notified to the other competent authorities concerned ***and shall be made public by the relevant competent authorities.***

## Amendment 27

### Proposal for a directive – amending act

#### Article 2 – point 2 – point c

Directive 2002/87/EC

Article 3 – paragraph 3 a – subparagraph 2

#### *Text proposed by the Commission*

Decisions taken in accordance with this paragraph shall be notified to the other competent authorities concerned.

#### *Amendment*

Decisions taken in accordance with this paragraph shall be notified to the other competent authorities concerned ***and shall be made public by the relevant competent authorities.***

Or. en

## Amendment 28

### Proposal for a directive – amending act

#### Article 2 – point 2 – point d

Directive 2002/87/EC

Article 3 – paragraph 4 – point c

#### *Text proposed by the Commission*

(c) exclude ***a minority participation*** in the smaller sector if such ***participation is the only element*** for the identification of a financial conglomerate.

#### *Amendment*

(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.***

Or. en

## Amendment 29

### Proposal for a directive – amending act

#### Article 2 – point 2 – point e

Directive 2002/87/EC

Article 3 – paragraph 5

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*Text proposed by the Commission*

5. 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 these parameters are of particular relevance for the purpose of supplementary supervision under this Directive: income structure, off-balance sheet activities, assets under management.

*Amendment*

5. 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 these parameters are of particular relevance for the purpose of supplementary supervision under this Directive: income structure, off-balance sheet activities, **total** assets under management.

Or. en

**Amendment 30**

**Proposal for a directive – amending act**

**Article 2 – point 2 – point f**

Directive 2002/87/EC

Article 3 – paragraph 8

*Text proposed by the Commission*

8. The European Banking Authority **and** the European Insurance and Occupational Pensions Authority shall issue common guidelines aimed at the convergence of supervisory practices with regard to the application of paragraphs 2, 3, 3a, 4 and 5 of this Article.

*Amendment*

8. The **European Supervisory Authority** (European Banking Authority), the **European Supervisory Authority** (European Insurance and Occupational Pensions Authority) **and the European Supervisory Authority (European Securities and Markets Authority)** shall, **through the Joint Committee**, issue common guidelines aimed at the convergence of supervisory practices with regard to the application of paragraphs 2, 3, 3a, 4 and 5 of this Article.

Or. en

## Amendment 31

### Proposal for a directive – amending act

#### Article 2 – point 2 a (new)

Directive 2002/87/EC

Article 4 – paragraph 1 – subparagraph 2 and paragraph 3

*Text proposed by the Commission*

*Amendment*

***(2a) Article 4 is amended as follows:***

***(a) in paragraph 1, the second subparagraph is replaced by the following:***

**"For this purpose:**

- competent authorities which have authorised regulated entities in the group shall [...] cooperate closely,**
- 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, which has not already been identified according to this Directive, the competent authority shall communicate its view to the other competent authorities concerned *and the Joint Committee.*"**

***(b) paragraph 3 is replaced by the following:***

**"3. The Joint Committee shall publish on its website and keep up-to-date the list of [...] financial conglomerates defined in accordance with Article 2. That information shall be available by hyperlink on each of the European Supervisory Authority's websites.**

***The name of each regulated entity referred to in Article 1 which is part of a financial conglomerate shall be entered in a list, which the Joint Committee shall publish on its website and keep up to date. The Joint Committee shall also establish and regularly update a database with details on the legal and operational structure of all financial conglomerates, including all legal entities established by***

*the financial conglomerate, to be made available to relevant competent authorities, the European Systemic Risk Board and to be published on the website of the Joint Committee."*

Or. en

## **Amendment 32**

### **Proposal for a directive – amending act**

#### **Article 2 – point 2 b (new)**

Directive 2002/87/EC

Article 5 – paragraph 2 – point b

*Text proposed by the Commission*

*Amendment*

*(2b) In Article 5(2), point (b) is replaced by the following:*

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

Or. en

## **Amendment 33**

### **Proposal for a directive – amending act**

#### **Article 2 – point 2 c (new)**

Directive 2002/87/EC

Article 5 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*(2c) In Article 5, paragraph 3 is replaced by the following:*

**"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, having its head office outside the *Union*, shall be subject to**

supplementary supervision at the level of the financial conglomerate to the extent and in the manner prescribed in Article 18.”

Or. en

#### Amendment 34

##### Proposal for a directive – amending act

##### Article 2 – point 3 a (new)

Directive 2002/87/EC

Article 7 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(3a) In Article 7, paragraph 3 is replaced by the following:***

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

Or. en

#### Amendment 35

##### Proposal for a directive – amending act

##### Article 2 – point 4

Directive 2002/87/EC

Article 7 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. The European Banking Authority *and* the European Insurance and Occupational Pensions Authority shall issue common guidelines aimed at the convergence of supervisory practices with regard to the application of supplementary supervision

5. The ***European Supervisory Authority*** (European Banking Authority), the ***European Supervisory Authority*** (European Insurance and Occupational Pensions Authority) ***and the European Supervisory Authority (European***



of risk concentration as provided for in paragraphs 1 to 4. They shall issue specific common guidelines on the application of paragraphs 1 to 4 to participations of the financial conglomerate in cases where national company law provisions obstruct the application of Article 14(2).

*Securities and Markets Authority*) 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. They shall issue specific common guidelines on the application of paragraphs 1 to 4 to participations of the financial conglomerate in cases where national company law provisions obstruct the application of Article 14(2).

Or. en

### **Amendment 36**

#### **Proposal for a directive – amending act**

#### **Article 2 – point 4 a (new)**

Directive 2002/87/EC

Article 8 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(4a) In Article 8, paragraph 3 is replaced by the following:***

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

Or. en

## Amendment 37

### Proposal for a directive – amending act

#### Article 2 – point 5

Directive 2002/87/EC

Article 8 – paragraph 5

*Text proposed by the Commission*

5. The European Banking Authority *and* the European Insurance and Occupational Pensions Authority shall 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.. They shall issue specific common guidelines on the application of paragraphs 1 to 4 to participations of the financial conglomerate in cases where national company law provisions obstruct the application of Article 14(2).

*Amendment*

5. The ***European Supervisory Authority*** (European Banking Authority), the ***European Supervisory Authority*** (European Insurance and Occupational Pensions Authority) ***and the European Supervisory Authority (European Securities and Markets Authority)*** 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. They shall issue specific common guidelines on the application of paragraphs 1 to 4 to participations of the financial conglomerate in cases where national company law provisions obstruct the application of Article 14(2).

Or. en

## Amendment 38

### Proposal for a directive – amending act

#### Article 2 – point 6

Directive 2002/87/EC

Article 9 – paragraph 6

*Text proposed by the Commission*

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

*Amendment*

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 124 of Directive 2006/48/EC and Article 36 of Directive 2009/138/EC. To this end, the European Banking Authority *and* the European Insurance and Occupational Pensions Authority shall 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 124 of Directive 2006/48/EC and Article 36 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 14(2).

for by Article 124 of Directive 2006/48/EC and Article 36 of Directive 2009/138/EC. To this end, the ***European Supervisory Authority*** (European Banking Authority), the ***European Supervisory Authority*** (European Insurance and Occupational Pensions Authority) *and the European Supervisory Authority (European Securities and Markets Authority)* 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 124 of Directive 2006/48/EC and Article 36 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 14(2).

Or. en

## Amendment 39

### Proposal for a directive – amending act

#### Article 2 – point 6 a (new)

Directive 2002/87/EC

Article 9 a a (new)

*Text proposed by the Commission*

*Amendment*

***(6a) The following Article is inserted:***

***"Article 9aa***

***Stress testing***

***The coordinator shall organise an annual stress test at the level of each financial conglomerate, based on all relevant the parameters agreed and provided by the Joint Committee. Relevant competent authorities shall fully cooperate with the***

*coordinator. The results of the stress test shall be communicated to the Joint Committee, which shall publish the results on its website."*

Or. en

## Amendment 40

### Proposal for a directive – amending act

#### Article 2 – point 6 b (new)

Directive 2002/87/EC

Article 10 – paragraph 2 – point b – subpoints ii and iii

*Text proposed by the Commission*

*Amendment*

*(6b) Article 10(2)(b) is amended as follows:*

*(a) in point (ii), the first paragraph is replaced by the following:*

**"(ii) where more than one regulated entity with a head 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."**

*(b) point (iii) is replaced by the following:*

**"(iii) where more than one regulated entity with a head 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;"**

## Amendment 41

### Proposal for a directive – amending act

#### Article 2 – point 6 c (new)

Directive 2002/87/EC

Article 11 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(6c) In Article 11, paragraph 3 is replaced by the following:***

**"3. Without prejudice to the possibility of delegating specific supervisory competences and responsibilities as provided for by *Union* legislation, 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."**

Or. en

## Amendment 42

### Proposal for a directive – amending act

#### Article 2 – point 7

Directive 2002/87/EC

Article 11 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. The European Banking Authority *and* the European Insurance and Occupational Pensions Authority shall issue common guidelines aimed at the consistency of supervisory coordination arrangements according to Article 131a of Directive 2006/48/EC and Article 248(4) of Directive 2009/138/EC.

5. The ***European Supervisory Authority*** (European Banking Authority), the ***European Supervisory Authority*** (European Insurance and Occupational Pensions Authority) ***and the European Supervisory Authority (European Securities and Markets Authority)*** shall, ***through the Joint Committee***, issue common guidelines aimed at the

consistency of supervisory coordination arrangements according to Article 131a of Directive 2006/48/EC and Article 248(4) of Directive 2009/138/EC.

Or. en

## Amendment 43

### Proposal for a directive – amending act

#### Article 2 – point 7 a (new)

Directive 2002/87/EC

Article 18

*Text proposed by the Commission*

*Amendment*

*(7a) Article 18 is amended as follows:*

*(a) the title is replaced by the following:*

**"Parent undertakings outside the Union"**

*(b) paragraph 3 is replaced by the following:*

**"3. Member States shall allow their competent authorities to apply other methods which ensure appropriate supplementary supervision of the regulated entities in a financial conglomerate. These methods must be agreed by the coordinator, after consultation with 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 methods must achieve the objectives of the supplementary supervision as defined in this Directive and must be notified to the other competent authorities involved and the Commission."**

*(c) the following paragraph is added:*

***"3a. The European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), through the Joint Committee, may provide general 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."***

Or. en

#### **Amendment 44**

##### **Proposal for a directive – amending act**

##### **Article 2 – point 8**

Directive 2002/87/EC

Article 19 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***2. Without prejudice to the procedures provided for in Article 218 of the Treaty on the Functioning of the European Union, the Commission shall, with the assistance of the European Banking Committee, the European Insurance and Occupational Pensions Committee and the Financial Conglomerates Committee, examine the outcome of the negotiations referred to in paragraph 1 and the resulting situation.***

***deleted***

Or. en

## Amendment 45

### Proposal for a directive – amending act

#### Article 2 – point 9

Directive 2002/87/EC

Chapter III – Title

*Text proposed by the Commission*

**POWERS CONFERRED ON THE  
COMMISSION, COMMITTEE  
PROCEDURE AND ADOPTION OF  
COMMON GUIDELINES**

*Amendment*

**DELEGATED ACTS AND  
IMPLEMENTING MEASURES**

Or. en

## Amendment 46

### Proposal for a directive – amending act

#### Article 2 – point 9 a (new)

Directive 2002/87/EC

Article 20 – title and paragraph 1

*Text proposed by the Commission*

*Amendment*

***(9a) Article 20 is amended as follows:***

***(a) the title is replaced by the following:***

***"Delegation of power";***

***(b) paragraph 1 is replaced by the following:***

***"1. The Commission shall adopt, by means of delegated acts in accordance with Article 21c, and subject to the conditions of Articles 21d and 21e, measures concerning the technical adaptations to be made to this Directive in the following areas:***

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



**(b) a more precise formulation of the definitions referred to in Article 2 in order to ensure consistent harmonisation and uniform application of this Directive in the *Union*;**

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

**(d) a more precise definition of the calculation methods set out in Annex I in order to take account of developments on financial markets and prudential techniques;**

**(e) coordination of the provisions adopted pursuant to Articles 7 and 8 and Annex II with a view to encouraging consistent harmonisation and uniform application within the *Union*.";**

[...]

**Those measures shall not include the subject matter of the power delegated and conferred on the Commission with regard to the items listed in Article 21a."**

Or. en

#### **Amendment 47**

#### **Proposal for a directive – amending act**

#### **Article 2 – point 9 b (new)**

Directive 2002/87/EC

Article 21

*Text proposed by the Commission*

*Amendment*

***(9b) In Article 21, paragraphs 2 to 5 are deleted.***

Or. en

## Amendment 48

### Proposal for a directive – amending act

#### Article 2 – point 10

Directive 2002/87/EC

Article 21 b

*Text proposed by the Commission*

The European Banking Authority *and* the European Insurance and Occupational Pensions Authority shall issue the common guidelines referred to in Article 3(3), Article 7(5), Article 8(5), Article 9(6) *and* Article 11(5) in accordance with the procedure laid down in **Article 42 of the** Regulation (EU) No ../.. establishing the European Banking Authority, *and in Article 42 of the* Regulation (EU) No ../.. establishing the European Insurance and Occupational Pensions Authority, following cooperation within the Joint Committee *of the European Supervisory Authorities*.

*Amendment*

The **European Supervisory Authority** (European Banking Authority), the **European Supervisory Authority** (European Insurance and Occupational Pensions Authority) *and the European Supervisory Authority (European Securities and Markets Authority)* shall, **through the Joint Committee**, issue the common guidelines referred to in Article 3(3), Article 7(5), Article 8(5), Article 9(6), Article 11(5) *and Article 18(3a)* in accordance with the procedure laid down in **Article 56 of each of** Regulation (EU) No ../2010 establishing the **European Supervisory Authority** (European Banking Authority), Regulation (EU) No ../2010 establishing the **European Supervisory Authority** (European Insurance and Occupational Pensions Authority) *and Regulation (EU) No ../2010 establishing the European Supervisory Authority (European Securities and Markets Authority)*, following cooperation within the Joint Committee.

Or. en

## Amendment 49

### Proposal for a directive – amending act

#### Article 2 – point 10 a (new)

Directive 2002/87/EC

Article 21 c (new)

*Text proposed by the Commission*

*Amendment*

**(10a) The following Article is inserted:**

**"Article 21c**

***Exercise of the delegation***

***1. The power to adopt delegated acts referred to in Article 20 shall be conferred on the Commission for a period of four years from ....\*. The Commission shall draw up a report in respect of the delegated power at the latest six months before the end of the four-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 21d.***

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

***3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 21d and 21e."***

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***\* OJ: Please insert date of entry into force of this Directive.***

Or. en

**Amendment 50**

**Proposal for a directive – amending act**

**Article 2 – point 10 b (new)**

Directive 2002/87/EC

Article 21 d (new)

*Text proposed by the Commission*

*Amendment*

***(10b) The following Article is inserted:***

***"Article 21d***

***Revocation of the delegation***

***1. The delegation of power referred to in Article 20 may be revoked at any time by the European Parliament or by the***

*Council.*

*2. The institution which has commenced an internal procedure for deciding whether to revoke a delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation.*

*3. The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union."*

Or. en

## **Amendment 51**

**Proposal for a directive – amending act**

**Article 2 – point 10 c (new)**

Directive 2002/87/EC

Article 21 e (new)

*Text proposed by the Commission*

*Amendment*

*(10c) The following Article is inserted:*

*"Article 21e*

*Objections to delegated acts*

*1. The European Parliament or the Council may object to the delegated act within a period of three months from the date of notification. At the initiative of the European Parliament or the Council that period shall be extended by three months.*

*2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force at the*

*date stated therein.*

*The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.*

*3. If either the European Parliament or the Council objects to the delegated act within the period referred to in paragraph 1, it shall not enter into force. In accordance with Article 296 of the Treaty on the Functioning of the European Union, the institution which objects shall state the reasons for objecting to the delegated act."*

Or. en

## **Amendment 52**

**Proposal for a directive – amending act**

**Article 2 – point 11 a (new)**

Directive 2002/87/EC

Article 30 a (new)

*Text proposed by the Commission*

*Amendment*

*(11a) The following Article is inserted:*

*"Article 30a*

*Alternative investment fund managers*

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

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

*(b) where the group is a financial conglomerate, in the scope of supplementary supervision within the*

*meaning of this Directive; and*

*(c) in the identification process within the meaning of Article 3(2).*

*For the application of the first paragraph, Member States shall provide, 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 and/or supplementary supervision referred to in point (a) of the first paragraph. For the purposes of this provision, 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 supplementary supervision referred to in point (b) of the first paragraph, the alternative investment fund manager shall be treated as part of whichever sector it is included in by virtue of point (a) of the first paragraph.*

*Where an alternative investment fund manager 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, alternative investment fund managers and the competent authorities responsible for the supervision of alternative investment fund managers. This applies mutatis mutandis as regards groups referred to in point (a) of the first paragraph."*

Or. en

## Amendment 53

### Proposal for a directive – amending act

#### Article 3 – point -1 (new)

Directive 2006/48/EC

Article 1 – paragraph 2

*Text proposed by the Commission*

*Amendment*

*(-1) Article 1(2) is replaced by the following:*

**"2. Article 39 and Title V, Chapter 4, Section 1 shall apply to financial holding companies, *mixed financial holding companies* and mixed-activity holding companies which have their head offices in the *Union*."**

Or. en

## Amendment 54

### Proposal for a directive – amending act

#### Article 3 – point 1

Directive 2006/48/EC

Article 4 – points 14, 15, 15 a (new) 16, 17, 17 a (new) and 49 a (new)

*Text proposed by the Commission*

*Amendment*

*(1) Article 4 is amended as follows:*

*(a) points (14) and (15) are replaced by the following:*

**"(14) ‘parent credit institution in a Member State’ means a credit institution which has a credit institution or a financial institution as a subsidiary or which holds a participation in such an institution, and which is not itself a subsidiary of another credit institution authorised in the same Member State, or of a financial holding company or *mixed financial holding company* set up in the same Member State;**

**(15) ‘parent financial holding company in a Member State’ means a financial holding company which is not itself a**

subsidiary of a credit institution authorised in the same Member State, or of a financial holding company or mixed financial holding company set up in the same Member State;";

*(b) The following point is inserted:*

*"(15a) 'parent mixed financial holding company in a Member State' means a mixed financial holding company which is not itself a subsidiary of a credit institution authorised in the same Member State, or of a financial holding company or mixed financial holding company set up in the same Member State;";*

*(c) points (16) and (17) are replaced by the following:*

*"(16) 'EU parent credit institution' means a parent credit institution in a Member State which is not a subsidiary of another credit institution authorised in any Member State, or of a financial holding company or mixed financial holding company set up in any Member State;*

*(17) 'EU parent financial holding company' means a parent financial holding company in a Member State which is not a subsidiary of a credit institution authorised in any Member State or of another financial holding company or mixed financial holding company set up in any Member State;";*

*(d) The following point is inserted:*

*(17a) 'EU parent mixed financial holding company' means a parent mixed financial holding company in a Member State which is not a subsidiary of a credit institution authorised in any Member State or of another financial holding company or mixed financial holding company set up in any Member State;";*

*(e) The following point is added:*

(1) The following point **(49)** is added to *Article 4*:

*"(49) 'mixed financial holding company'*

*"(49a) 'mixed financial holding company'*



means a mixed financial holding company as defined in Article 2(15) of Directive 2002/87/EC *of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate*<sup>1</sup>;

means a mixed financial holding company as defined in Article 2(15) of Directive 2002/87/EC;

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<sup>1</sup> OJ L 35, 11.2.2003, p. 1.

Or. en

## Amendment 55

### Proposal for a directive – amending act

#### Article 3 – point 1 a (new)

Directive 2006/48/EC

Article 39 – paragraph 1 – point b

*Text proposed by the Commission*

*Amendment*

***(1a) In Article 39(1), point (b) is replaced by the following:***

***“(b) credit institutions situated in third countries the parent undertakings of which, whether credit institutions, financial holding companies or mixed financial holding companies, have their head offices in the Union.”***

Or. en

## Amendment 56

### Proposal for a directive – amending act

#### Article 3 – point 1 b (new)

Directive 2006/48/EC

Article 39 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

***(1b) In Article 39(2), point (a) is replaced by the following:***

**“(a) that the competent authorities of the Member States are able to obtain the information necessary for the supervision, on the basis of their consolidated financial situations, of credit institutions, financial holding companies or mixed financial holding companies situated in the *Union* and which have as subsidiaries credit institutions or financial institutions situated outside the *Union*, or holding participation in such institutions; and”.**

Or. en

### **Amendment 57**

#### **Proposal for a directive – amending act**

#### **Article 3 – point 1 c (new)**

Directive 2006/48/EC

Article 69 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(1c) In Article 69, paragraph 2 is replaced by the following:***

**“2. The Member States may exercise the option provided for in paragraph 1 where the parent undertaking is a financial holding company or mixed financial holding company set up in the same Member State as the credit institution, provided that it is subject to the same supervision as that exercised over credit institutions, and in particular to the standards laid down in Article 71(1).”**

Or. en

## Amendment 58

### Proposal for a directive – amending act

#### Article 3 – point 3 a (new)

Directive 2006/48/EC

Article 73 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(3a) In Article 73, paragraph 2 is replaced by the following:***

**“2. Competent authorities shall require subsidiary credit institutions to apply the requirements laid down in Articles 75, 120 and 123 and Section 5 of this Directive on a sub-consolidated basis if those credit institutions, or the parent undertaking where it is a financial holding company or mixed financial holding company, have a credit institution or a financial institution or an asset management company as defined in Article 2(5) of Directive 2002/87/EC as a subsidiary in a third country, or hold a participation in such an undertaking.”**

Or. en

## Amendment 59

### Proposal for a directive – amending act

#### Article 3 – point 3 b (new)

Directive 2006/48/EC

Article 80 – paragraph 7 – point a

*Text proposed by the Commission*

*Amendment*

***(3b) In Article 80(7), point (a) is replaced by the following:***

**“(a) the counterparty is an institution or a financial holding company, mixed financial holding company, financial institution, asset management company or ancillary services undertaking subject to appropriate prudential**

requirements;”;

Or. en

## Amendment 60

### Proposal for a directive – amending act

#### Article 3 – point 3 c (new)

Directive 2006/48/EC

Article 84 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

***(3c) In Article 84(2), the second subparagraph is replaced by the following:***

**“Where an EU parent credit institution and its subsidiaries or an EU parent financial holding company and its subsidiaries or an EU parent mixed financial holding company and its subsidiaries use the IRB Approach on a unified basis, the competent authorities may allow minimum requirements of Annex VII, Part 4 to be met by the parent and its subsidiaries considered together.”**

Or. en

## Amendment 61

### Proposal for a directive – amending act

#### Article 3 – point 4 a (new)

Directive 2006/48/EC

Article 89 – paragraph 1 – point e

*Text proposed by the Commission*

*Amendment*

***(4a) In Article 89(1), point (e) is replaced by the following:***

**“(e) exposures of a credit institution to a counterparty which is its parent undertaking, its subsidiary or a**

**subsidiary of its parent undertaking provided that the counterparty is an institution or a financial holding company, *mixed financial holding company*, financial institution, asset management company or ancillary services undertaking subject to appropriate prudential requirements or an undertaking linked by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC and exposures between credit institutions which meet the requirements set out in Article 80(8);”;**

Or. en

## Amendment 62

### Proposal for a directive – amending act

#### Article 3 – point 5

Directive 2006/48/EC

Article 105 – paragraph 3

#### *Text proposed by the Commission*

3. When an Advanced Measurement Approach is intended to be used by an EU parent credit institution and its subsidiaries ***or by the subsidiaries of*** an EU parent financial holding company or an EU parent mixed financial holding company, the competent authorities of the different legal entities shall cooperate closely as provided for in Articles 129 to 132. The application shall include the elements listed in Annex X, Part 3.

#### *Amendment*

3. When an Advanced Measurement Approach is intended to be used by an EU parent credit institution and its subsidiaries, an EU parent financial holding company ***and its subsidiaries*** or an EU parent mixed financial holding company ***and its subsidiaries***, the competent authorities of the different legal entities shall cooperate closely as provided for in Articles 129 to 132. The application shall include the elements listed in Annex X, Part 3.

Or. en

## Amendment 63

### Proposal for a directive – amending act

#### Article 3 – point 5

Directive 2006/48/EC

Article 105 – paragraph 4

*Text proposed by the Commission*

4. Where an EU parent credit institution and its subsidiaries **or the subsidiaries of** an EU parent financial holding company or an EU parent mixed financial holding company use an Advanced Measurement Approach on a unified basis, the competent authorities may allow the qualifying criteria set out in Annex X, Part 3 to be met by the parent and its subsidiaries considered together.

*Amendment*

4. Where an EU parent credit institution and its subsidiaries, an EU parent financial holding company **and its subsidiaries** or an EU parent mixed financial holding company **and its subsidiaries** use an Advanced Measurement Approach on a unified basis, the competent authorities may allow the qualifying criteria set out in Annex X, Part 3 to be met by the parent and its subsidiaries considered together.

Or. en

## Amendment 64

### Proposal for a directive – amending act

#### Article 3 – point 5 a (new)

Directive 2006/48/EC

Article 122a – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(5a) In Article 122a, paragraph 2 is replaced by the following:***

**“2. Where an EU parent credit institution, an EU parent financial holding company or EU parent mixed financial holding company, or one of its subsidiaries, as an originator or a sponsor, securitises exposures from several credit institutions, investment firms or other financial institutions which are included in the scope of supervision on a consolidated basis, the requirement referred to in paragraph 1 may be satisfied on the basis of the consolidated situation of the related EU parent credit institution, EU parent**

**financial holding company or EU parent mixed financial holding company. This paragraph shall apply only where credit institutions, investment firms or financial institutions which created the securitised exposures have committed themselves to adhere to the requirements set out in paragraph 6 and deliver, in a timely manner, to the originator or sponsor and to the EU parent credit institution, the EU parent financial holding company or the EU parent mixed financial holding company the information needed to satisfy the requirements referred to in paragraph 7.”**

Or. en

## **Amendment 65**

### **Proposal for a directive – amending act**

#### **Article 3 – point 6**

Directive 2006/48/EC

Article 125 – paragraph 2

#### *Text proposed by the Commission*

2. Where the parent of a credit institution is a parent financial holding company in a Member State **or** an EU parent financial holding company or an EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities that authorised that credit institution under Article 6.

#### *Amendment*

2. Where the parent of a credit institution is a parent financial holding company in a Member State, **a parent mixed financial holding company in a Member State**, an EU parent financial holding company or an EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities that authorised that credit institution under Article 6.

Or. en

## Amendment 66

### Proposal for a directive – amending act

#### Article 3 – point 7

Directive 2006/48/EC

Article 126 – paragraph 1

#### *Text proposed by the Commission*

1. Where credit institutions authorised in two or more Member States have as their parent the same parent financial holding company in a Member State *or* the same EU parent financial holding company or the same mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities of the credit institution authorised in the Member State in which the financial holding company or mixed financial holding company was set up.

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

#### *Amendment*

1. Where credit institutions authorised in two or more Member States have as their parent the same parent financial holding company in a Member State, ***the same parent mixed financial holding company in a Member State***, the same EU parent financial holding company or the same ***EU parent mixed financial holding company***, supervision on a consolidated basis shall be exercised by the competent authorities of the credit institution authorised in the Member State in which the financial holding company or mixed financial holding company was set up.

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

Or. en

## Amendment 67

### Proposal for a directive – amending act

#### Article 3 – point 8 – point a

Directive 2006/48/EC

Article 127 – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall adopt any measures

#### *Amendment*

1. Member States shall adopt any measures



necessary, where appropriate, to include financial holding companies or mixed financial holding companies in consolidated supervision. Without prejudice to Article 135, the consolidation of the financial situation of the financial holding company or the mixed financial holding company shall not in any way imply that the competent authorities are required to play a supervisory role in relation to the financial holding company on a stand alone basis.

necessary, where appropriate, to include financial holding companies or mixed financial holding companies in consolidated supervision. Without prejudice to Article 135, the consolidation of the financial situation of the financial holding company or the mixed financial holding company shall not in any way imply that the competent authorities are required to play a supervisory role in relation to the financial holding company ***or mixed financial holding company*** on a stand alone basis.

Or. en

## **Amendment 68**

### **Proposal for a directive – amending act**

#### **Article 3 – point 8 – point b**

Directive 2006/48/EC

Article 127 – paragraph 3

#### *Text proposed by the Commission*

3. Member States shall provide that their competent authorities responsible for exercising supervision on a consolidated basis may ask the subsidiaries of a credit institution ***or*** a financial holding company or a mixed financial holding company, which are not included within the scope of supervision on a consolidated basis for the information referred to in Article 137. In such a case, the procedures for transmitting and verifying the information laid down in that Article shall apply.

#### *Amendment*

3. Member States shall provide that their competent authorities responsible for exercising supervision on a consolidated basis may ask the subsidiaries of a credit institution, a financial holding company or a mixed financial holding company, which are not included within the scope of supervision on a consolidated basis for the information referred to in Article 137. In such a case, the procedures for transmitting and verifying the information laid down in that Article shall apply.

Or. en

## Amendment 69

### Proposal for a directive – amending act

#### Article 3 – point 10 a (new)

Directive 2006/48/EC

Article 129 – paragraph 3 – subparagraphs 1, 5 and 9

*Text proposed by the Commission*

*Amendment*

***(10a) In Article 129, paragraph 3 is amended as follows:***

***(a) the first subparagraph is replaced by the following:***

**“3. The consolidating supervisor and the competent authorities responsible for the supervision of subsidiaries of an EU parent credit institution, an EU parent financial holding company or an EU parent mixed financial holding company shall do everything within their power to reach a joint decision on the application of Articles 123 and 124 to determine the adequacy of the consolidated level of own funds held by the group with respect to its financial situation and risk profile and the required level of own funds for the application of Article 136(2) to each entity within the banking group and on a consolidated basis.”;**

***(b) the fifth subparagraph is replaced by the following:***

**“The decision on the application of Articles 123 and 124 and Article 136(2) shall be taken by the respective competent authorities responsible for supervision of subsidiaries of an EU parent credit institution, an EU parent financial holding company or an EU parent mixed financial holding company on an individual or sub-consolidated basis after duly considering the views and reservations expressed by the consolidating supervisor. If, at the end of the four-month period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation**

**(EU) No .../2010, the competent authorities shall defer their decision and await any decision that EBA shall take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The four month period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached.”;**

***(c) the ninth subparagraph is replaced by the following:***

***”The joint decision referred to in the first subparagraph and any decision taken in the absence of a joint decision in accordance with the fourth and fifth subparagraphs, shall be updated on an annual basis or, in exceptional circumstances, where a competent authority responsible for the supervision of subsidiaries of an EU parent credit institution, an EU parent financial holding company or an EU parent mixed financial holding company makes a written and fully reasoned request to the consolidating supervisor to update the decision on the application of Article 136(2). In the latter case, the update may be addressed on a bilateral basis between the consolidating supervisor and the competent authority making the request.”***

Or. en

## **Amendment 70**

**Proposal for a directive – amending act**

**Article 3 – point 10 b (new)**

Directive 2006/48/EC

Article 131a – paragraph 2 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

***(10b) In Article 131a(2), the third subparagraph is replaced by the following:***

**“The competent authorities responsible for the supervision of subsidiaries of an EU parent credit institution, an EU parent financial holding company *or an EU parent mixed financial holding company* and the competent authorities of a host country where significant branches as referred to in Article 42a are established, central banks as appropriate, and third countries' competent authorities where appropriate and subject to confidentiality requirements that are equivalent, in the opinion of all competent authorities, to the requirements under Chapter 1 Section 2, may participate in colleges of supervisors.”**

Or. en

## **Amendment 71**

**Proposal for a directive – amending act**

**Article 3 – point 10 c (new)**

Directive 2006/48/EC

Article 132 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

***(10c) In Article 132(1), the third subparagraph is replaced by the following:***

**“In particular, competent authorities responsible for consolidated supervision of EU parent credit institutions and credit institutions controlled by EU parent financial holding companies *or by EU parent mixed financial holding companies* shall provide the competent**

**authorities in other Member States who supervise subsidiaries of these parents with all relevant information. In determining the extent of relevant information, the importance of these subsidiaries within the financial system in those Member States shall be taken into account.”**

Or. en

## **Amendment 72**

### **Proposal for a directive – amending act**

#### **Article 3 – point 10 d (new)**

Directive 2006/48/EC

Article 135

*Text proposed by the Commission*

*Amendment*

*(10d) Article 135 is replaced by the following:*

**"Article135**

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

Or. en

## **Amendment 73**

### **Proposal for a directive – amending act**

#### **Article 3 – point 10 e (new)**

Directive 2006/48/EC

Article 139 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

*(10e) In Article 139(3), the first subparagraph is replaced by the*

*following:*

**“3. Member States shall authorise the exchange between their competent authorities of the information referred to in paragraph 2, on the understanding that, in the case of financial holding companies, *mixed financial holding companies*, financial institutions or ancillary services undertakings, the collection or possession of information shall not in any way imply that the competent authorities are required to play a supervisory role in relation to those institutions or undertakings standing alone.”**

Or. en

#### **Amendment 74**

**Proposal for a directive – amending act**

**Article 3 – point 10 f (new)**

Directive 2006/48/EC

Article 140 – paragraphs 1 and 3

*Text proposed by the Commission*

*Amendment*

***(10f) Article 140 is amended as follows:***

***(a) paragraph 1 is replaced by the following:***

**“1. Where a credit institution, financial holding company, *mixed financial holding company* or a mixed activity holding company controls one or more subsidiaries which are insurance companies or other undertakings providing investment services which are subject to authorisation, the competent authorities and the authorities entrusted with the public task of supervising insurance undertakings or those other undertakings providing investment services shall cooperate closely. Without prejudice to their respective responsibilities, those authorities shall provide one another with any**

**information likely to simplify their task and to allow supervision of the activity and overall financial situation of the undertakings they supervise.”**

*(b) paragraph 3 is replaced by the following:*

**“3. The competent authorities responsible for supervision on a consolidated basis shall establish lists of the financial holding companies *or mixed financial holding companies* referred to in Article 71(2). Those lists shall be communicated to the competent authorities of the other Member States, to EBA and to the Commission.”**

Or. en

## **Amendment 75**

**Proposal for a directive – amending act**

**Article 3 – point 12 a (new)**

Directive 98/78/EC

Article 143 – paragraph 3 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

*(12a) In Article 143(3), the third subparagraph is replaced by the following:*

**“Competent authorities may in particular require the establishment of a financial holding company *or mixed financial holding company* which has its head office in the *Union*, and apply the provisions on consolidated supervision to the consolidated position of that financial holding company *or mixed financial holding company*.”**

Or. en

## Amendment 76

**Proposal for a directive – amending act**  
**Article 3 a – title and introductory part (new)**  
Directive 2009/138/EC

*Text proposed by the Commission*

*Amendment*

### *Article 3a*

*Amendments to Directive 2009/138/EC*

*Directive 2009/138/EC is amended as follows:*

Or. en

## Amendment 77

**Proposal for a directive – amending act**  
**Article 3 a – point 1 (new)**  
Directive 2009/138/EC  
Articles 25 a (new)

*Text proposed by the Commission*

*Amendment*

*(1) The following Article is inserted:*

*"Article 25a*

*Transparency*

*Every authorisation shall be notified to the Commission. The name of each insurance undertaking and reinsurance undertaking to which authorisation has been granted shall be entered in a list. The European Supervisory Authority (European Insurance and Occupational Pensions Authority) shall publish that list on its website and shall keep it up to date."*

Or. en



## Amendment 78

### Proposal for a directive – amending act

#### Article 3 a – points 2 to 22 (new)

Directive 2009/138/EC

Articles 212 to 216, 219, 226, 231, 233, 235, 243 to 247, 256, 257, 258, 262 and 263

*Text proposed by the Commission*

*Amendment*

*(2) Article 212(1) is amended as follows:*

*(a) points (f) and (g) are replaced by the following:*

**"(f) "insurance holding company" means a parent undertaking which is not a mixed financial holding company [...] and the main business of which is to acquire and hold participations in subsidiary undertakings, where those subsidiary undertakings are exclusively or mainly insurance or reinsurance undertakings, or third-country insurance or reinsurance undertakings, at least one of such subsidiary undertakings being an insurance or reinsurance undertaking.**

**(g) "mixed-activity insurance holding company" means a parent undertaking, other than an insurance undertaking, a third-country insurance undertaking, a reinsurance undertaking, a third-country reinsurance undertaking, an insurance holding company or a mixed financial holding company [...], which includes at least one insurance or reinsurance undertaking among its subsidiary undertakings."**

*(b) the following point is added:*

***"(ga) 'mixed financial holding company' means a mixed financial holding company as defined in Article 2(15) of Directive 2002/87/EC."***

*(3) In Article 213, paragraphs 2 and 3 are replaced by the following:*

**"2. Member States shall ensure that supervision at the level of the group applies as follows:**

**(a) to insurance or reinsurance undertakings, which are a participating undertaking in at least one insurance undertaking, reinsurance undertaking, third-country insurance undertaking or third-country reinsurance undertaking, in accordance with Articles 218 to 258;**

**(b) to insurance or reinsurance undertakings, the parent undertaking of which is an insurance holding company or a mixed financial holding company which has its head office in the *Union*, in accordance with Articles 218 to 258;**

**(c) to insurance or reinsurance undertakings, the parent undertaking of which is an insurance holding company or a mixed financial holding company having its head office outside the *Union* or a third-country insurance or reinsurance undertaking, in accordance with Articles 260 to 263;**

**(d) to insurance or reinsurance undertakings, the parent undertaking of which is a mixed-activity insurance holding company, in accordance with Article 265.**

**3. In the cases referred to in points (a) and (b) of paragraph 2, where the participating insurance or reinsurance undertaking or the insurance holding company or mixed financial holding company which has its head office in the *Union* is either a related undertaking of, or is itself a regulated entity or a mixed financial holding company which is subject to supplementary supervision in accordance with Article 5(2) of Directive 2002/87/EC, the group supervisor may, after consulting the other supervisory authorities concerned, decide not to carry out at the level of that participating insurance or reinsurance undertaking or that insurance holding company or mixed financial holding company the supervision of risk concentration referred to in Article 244 of this Directive, the supervision of**

**intra-group transactions referred to in Article 245 of this Directive, or both.";**

***(4) In Article 214, paragraph 1 is replaced by the following:***

**"1. The exercise of group supervision in accordance with Article 213 shall not imply that the supervisory authorities are required to play a supervisory role in relation to the third-country insurance undertaking, the third-country reinsurance undertaking, the insurance holding company, *the mixed financial holding company* or the mixed-activity insurance holding company taken individually, without prejudice to Article 257 as far as insurance holding companies or *mixed financial holding companies* are concerned."**

***(5) In Article 215, paragraphs 1 and 2 are replaced by the following:***

**"1. Where the participating insurance or reinsurance undertaking or the insurance holding company *or the mixed financial holding company* referred to in Article 213(2)(a) and (b) is itself a subsidiary undertaking of another insurance or reinsurance undertaking or of another insurance holding company *or of another mixed financial holding company* which has its head office in the *Union*, Articles 218 to 258 shall apply only at the level of the ultimate parent insurance or reinsurance undertaking, insurance holding company *or mixed financial holding company* which has its head office in the *Union*.**

**2. Where the ultimate parent insurance or reinsurance undertaking or insurance holding company *or the mixed financial holding company* which has its head office in the *Union*, referred to in paragraph 1, is a subsidiary undertaking of an undertaking which is subject to supplementary supervision in accordance with Article 5(2) of Directive 2002/87/EC, the group supervisor may, after consulting the other supervisory**

authorities concerned, decide not to carry out at the level of that ultimate parent undertaking the supervision of risk concentration referred to in Article 244, the supervision of intra-group transactions referred to in Article 245, or both.”

*(6) In Article 216, paragraph 1 is replaced by the following:*

**"1. Where the participating insurance or reinsurance undertaking or the insurance holding company or the mixed financial holding company which has its head office in the *Union*, referred to in Article 213(2)(a) and (b), does not have its head office in the same Member State as the ultimate parent undertaking at *Union* level referred to in Article 215, Member States may allow their supervisory authorities to decide, after consulting the group supervisor and that ultimate parent undertaking at *Union* level, to subject to group supervision the ultimate parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company at national level."**

*(7) Article 219 is replaced by the following:*

#### **"Article 219**

##### **Frequency of calculation**

**1. The group supervisor shall ensure that the calculations referred to in Article 218(2) and (3) are carried out at least annually, [...] by the participating insurance undertaking, reinsurance undertaking, insurance holding company or mixed financial holding company.**

**The relevant data for and the results of that calculation shall be submitted to the group supervisor by the participating insurance or reinsurance undertaking or, where the group is not headed by an insurance or reinsurance undertaking, by the insurance holding company or the mixed financial holding company or by**

the undertaking in the group identified by the group supervisor after consulting the other supervisory authorities concerned and the group itself.

**2. The insurance *undertaking*, reinsurance undertaking, insurance holding company and the mixed financial holding company shall monitor the group Solvency Capital Requirement on an ongoing basis. Where the risk profile of the group deviates significantly from the assumptions underlying the last reported group Solvency Capital Requirement, the group Solvency Capital Requirement shall be recalculated without delay and reported to the group supervisor.**

Where there is evidence to suggest that the risk profile of the group has altered significantly since the date on which the group Solvency Capital Requirement was last reported, the group supervisor may require a recalculation of the group Solvency Capital Requirement."

*(8) Article 226 is replaced by the following:*

**"Article 226**

**Intermediate insurance holding companies**

**1. When calculating the group solvency of an insurance or reinsurance undertaking which holds a participation in a related insurance undertaking, a related reinsurance undertaking, a third-country insurance undertaking or a third-country reinsurance undertaking, through an insurance holding company or a mixed financial holding company, the situation of such an insurance holding company or mixed financial holding company shall be taken into account.**

**For the sole purpose of that calculation, the intermediate insurance holding company or intermediate mixed financial holding company shall be treated as if it**

were an insurance or reinsurance undertaking subject to the rules laid down in Title I, Chapter VI, Section 4, Subsections 1, 2 and 3 in respect of the Solvency Capital Requirement and were subject to the same conditions as are laid down in Title I, Chapter VI, Section 3, Subsections 1, 2 and 3, in respect of own funds eligible for the Solvency Capital Requirement.

**2. In cases where an intermediate insurance holding company or intermediate mixed financial holding company holds subordinated debt or other eligible own funds subject to limitation in accordance with Article 98, they shall be recognised as eligible own funds up to the amounts calculated by application of the limits set out in Article 98 to the total eligible own funds outstanding at group level as compared to the Solvency Capital Requirement at group level.**

**Any eligible own funds of an intermediate insurance holding company or intermediate mixed financial holding company, which would require prior authorisation from the supervisory authority in accordance with Article 90 if they were held by an insurance or reinsurance undertaking, may be included in the calculation of the group solvency only in so far as they have been duly authorised by the group supervisor."**

***(9) In Article 231, paragraph 1 is replaced by the following:***

**"1. In the case of an application for permission to calculate the consolidated group Solvency Capital Requirement, as well as the Solvency Capital Requirement of insurance and reinsurance undertakings in the group, on the basis of an internal model, submitted by an insurance or reinsurance undertaking and its related undertakings, or jointly by the related**

undertakings of an insurance holding company or a mixed financial holding company, the supervisory authorities concerned shall cooperate to decide whether or not to grant that permission and to determine the terms and conditions, if any, to which such permission is subject."

*(10) In Article 233, paragraph 5 is replaced by the following:*

**"5. In the case of an application for permission to calculate the Solvency Capital Requirement of insurance and reinsurance undertakings in the group on the basis of an internal model, submitted by an insurance or reinsurance undertaking and its related undertakings, or jointly by the related undertakings of an insurance holding company or mixed financial holding company, Article 231 shall apply mutatis mutandis."**

*(11) In Title III, Chapter II, Section I, the title of Subsection 5 is replaced by the following:*

**"Supervision of group solvency for insurance and reinsurance undertakings that are subsidiaries of an insurance holding company and mixed financial holding company".**

*(12) Article 235 is replaced by the following:*

**"Article 235**

**Group solvency of an insurance holding company and mixed financial holding company**

**Where insurance and reinsurance undertakings are subsidiaries of an insurance holding company or mixed financial holding company, the group supervisor shall ensure that the calculation of the solvency of the group is carried out at the level of the insurance holding company or mixed financial holding company applying**

Article 220(2) to Article 233.

For the purpose of that calculation, the parent undertaking shall be treated as if it were an insurance or reinsurance undertaking subject to the rules laid down in Title I, Chapter VI, Section 4, Subsections 1, 2 and 3 as regards the Solvency Capital Requirement and subject to the same conditions as laid down in Title I, Chapter VI, Section 3, Subsections 1, 2 and 3 as regards the own funds eligible for the Solvency Capital Requirement."

*(13) Article 243 is replaced by the following:*

**"Article 243**

**Subsidiaries of an insurance holding company and mixed financial holding company**

Articles 236 to 242 shall apply *mutatis mutandis* to insurance and reinsurance undertakings which are the subsidiary of an insurance holding company or mixed financial holding company."

*(14) In Article 244, paragraph 2 is replaced by the following:*

**"2. The Member States shall require insurance and reinsurance undertakings or insurance holding companies or mixed financial holding companies to report on a regular basis and at least annually to the group supervisor any significant risk concentration at the level of the group.**

**The necessary information shall be submitted to the group supervisor by the insurance or reinsurance undertaking which is at the head of the group or, where the group is not headed by a insurance or reinsurance undertaking, by the insurance holding company, by the mixed financial holding company or by the insurance or reinsurance undertaking in the group identified by the group supervisor after consulting the other supervisory authorities concerned**



and the group.

The risk concentrations shall be subject to supervisory review by the group supervisor."

*(15) In Article 245, paragraph 2 is replaced by the following:*

"2. The Member States shall require insurance and reinsurance undertakings, insurance holding companies *and mixed financial holding companies* to report on a regular basis and at least annually to the group supervisor all significant intra-group transactions by insurance and reinsurance undertakings within a group, including those performed with a natural person with close links to an undertaking in the group.

In addition, Member States shall require reporting of very significant intra-group transactions as soon as practicable.

The necessary information shall be submitted to the group supervisor by the insurance or reinsurance undertaking which is at the head of the group or, where the group is not headed by an insurance or reinsurance undertaking, by the insurance holding company, *the mixed financial holding company* or by the insurance or reinsurance undertaking in the group identified by the group supervisor after consulting the other supervisory authorities concerned and the group.

The intra-group transactions shall be subject to supervisory review by the group supervisor."

*(16) In Article 246(4), the first, second and third subparagraphs are replaced by the following:*

"4. Member States shall require the participating insurance undertaking or reinsurance undertaking, insurance holding company *or mixed financial holding company* to undertake at the

**level of the group the assessment required by Article 45. The own-risk and solvency assessment conducted at group level shall be subject to supervisory review by the group supervisor in accordance with Chapter III.**

**Where the calculation of the solvency at the level of the group is carried out in accordance with method 1, as referred to in Article 230, the participating insurance or reinsurance undertaking, insurance holding company *or mixed financial holding company* shall provide to the group supervisor a proper understanding of the difference between the sum of the Solvency Capital Requirements of all the related insurance or reinsurance undertakings of the group and the group consolidated Solvency Capital Requirement.**

**Where the participating insurance or reinsurance undertaking, insurance holding company *or mixed financial holding company* so decides, and subject to the agreement of the group supervisor, it may undertake any assessments required by Article 45 at the level of the group and at the level of any subsidiary in the group at the same time, and may produce a single document covering all the assessments."**

***(17) In Article 247(2), point (b) is replaced by the following:***

**"(b) where a group is not headed by an insurance or reinsurance undertaking, by the supervisory authority identified in accordance with the following:**

**(i) where the parent of an insurance or reinsurance undertaking is an insurance holding company *or mixed financial holding company*, by the supervisory authority which has authorised that insurance or reinsurance undertaking;**

**(ii) where more than one insurance or reinsurance undertaking with a head**

office in the *Union* have as their parent the same insurance holding company *or mixed financial holding company*, and one of those undertakings has been authorised in the Member State in which the insurance holding company *or mixed financial holding company* has its head office, by the supervisory authority of the insurance or reinsurance undertaking authorised in that Member State;

(iii) where the group is headed by more than one insurance holding company *or mixed financial holding company* with a head office in different Member States and there is an insurance or reinsurance undertaking in each of those Member States, by the supervisory authority of the insurance or reinsurance undertaking with the largest balance sheet total;

(iv) where more than one insurance or reinsurance undertaking with a head office in the *Union* have as their parent the same insurance holding company *or mixed financial holding company* and none of those undertakings has been authorised in the Member State in which the insurance holding company *or mixed financial holding company* has its head office, by the supervisory authority which authorised the insurance or reinsurance undertaking with the largest balance sheet total; or

(v) where the group is a group without a parent undertaking, or in any circumstances not referred to in points (i) to (iv) by the supervisory authority which authorised the insurance or reinsurance undertaking with the largest balance sheet total."

*(18) In Article 256, paragraphs 1 and 2 are replaced by the following:*

**"1. Member States shall require participating insurance and reinsurance undertakings, insurance holding companies *and mixed financial holding***

*companies* to disclose publicly, on an annual basis, a report on the solvency and financial condition at the level of the group. Articles 51 and 53 to 55 shall apply *mutatis mutandis*.

2. Where a participating insurance or reinsurance undertaking, insurance holding company *or mixed financial holding company* so decides, and subject to the agreement of the group supervisor, it may provide a single solvency and financial condition report which shall comprise the following:

(a) the information at the level of the group which must be disclosed in accordance with paragraph 1;

(b) the information for any of the subsidiaries within the group which must be individually identifiable and disclosed in accordance with Articles 51 and 53 to 55.

Before granting the agreement in accordance with the first subparagraph, the group supervisor shall consult and duly take into account any views and reservations of the members of the college of supervisors."

*(19) Article 257 is replaced by the following:*

**"Article 257**

**Administrative, management or supervisory body of insurance holding companies *and mixed financial holding companies***

**Member States shall require that all persons who effectively run the insurance holding company *or the mixed financial holding company* are fit and proper to perform their duties.**

**Article 42 shall apply *mutatis mutandis*."**

*(20) In Article 258, paragraphs 1 and 2 are replaced by the following:*

**"1. Where the insurance or reinsurance**

**undertakings in a group do not comply with the requirements referred to in Articles 218 to 246 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 financial position of the insurance or reinsurance undertakings, the following shall require the necessary measures in order to rectify the situation as soon as possible:**

- (a) the group supervisor with respect to the insurance holding company *and mixed financial holding company*;**
- (b) the supervisory authorities with respect to the insurance and reinsurance undertakings.**

**Where, in the case referred to in point (a) of the first subparagraph, the group supervisor is not one of the supervisory authorities of the Member State in which the insurance holding company *or mixed financial holding company* has its head office, the group supervisor shall inform those supervisory authorities of its findings with a view to enabling them to take the necessary measures.**

**Where, in the case referred to in point (b) of the first subparagraph, the group supervisor is not one of the supervisory authorities of the Member State in which the insurance or reinsurance undertaking has its head office, the group supervisor shall inform those supervisory authorities of its findings with a view to enabling them to take the necessary measures.**

**Without prejudice to paragraph 2, Member States shall determine the measures which may be taken by their supervisory authorities with respect to insurance holding companies *and mixed financial holding companies*.**

**The supervisory authorities concerned, including the group supervisor, shall**

where appropriate coordinate their enforcement measures.

**2. Without prejudice to their criminal law provisions, Member States shall ensure that sanctions or measures may be imposed on insurance holding companies and mixed financial holding companies which infringe laws, regulations or administrative provisions enacted to implement this Title, or on the person effectively managing those companies. The supervisory authorities shall cooperate closely to ensure that such sanctions or measures are effective, especially when the central administration or main establishment of an insurance holding company or mixed financial holding company is not located at its head office."**

*(21) Article 262 is replaced by the following:*

**"Article 262**

**Parent undertakings outside the *Union*:  
absence of equivalence**

**1. In the absence of equivalent supervision referred to in Article 260, Member States shall apply to the insurance and reinsurance undertakings either Articles 218 to 258, mutatis mutandis and with the exception of Articles 236 to 243, or one of the methods set out in paragraph 2.**

**The general principles and methods set out in Articles 218 to 258 shall apply at the level of the insurance holding company, *mixed financial holding company*, third-country insurance undertaking or third-country reinsurance undertaking.**

**For the sole purpose of the group solvency calculation, the parent undertaking shall be treated as if it were an insurance or reinsurance undertaking subject to the same conditions as laid down in Title I, Chapter VI, Section 3, Subsections 1, 2**

and 3 as regards the own funds eligible for the Solvency Capital Requirement and to either of the following:

(a) a Solvency Capital Requirement determined in accordance with the principles of Article 226 where it is an insurance holding company *or mixed financial holding company*;

(b) a Solvency Capital Requirement determined in accordance with the principles of Article 227, where it is a third-country insurance undertaking or a third-country reinsurance undertaking.

2. Member States shall allow their supervisory authorities to apply other methods which ensure appropriate supervision of the insurance and reinsurance undertakings in a group. Those methods must be agreed by the group supervisor, after consulting the other supervisory authorities concerned.

The supervisory authorities may in particular require the establishment of an insurance holding company which has its head office in the *Union*, *or a mixed financial holding company which has its head office in the Union* and apply this Title to the insurance and reinsurance undertakings in the group headed by that insurance holding company *or mixed financial holding company*.

The methods chosen shall allow the objectives of the group supervision as defined in this Title to be achieved and shall be notified to the other supervisory authorities concerned and the Commission."

*(22) In Article 263, the first and second paragraphs are replaced by the following:*

"Where the parent undertaking referred to in Article 260 is itself a subsidiary of an insurance holding company *or mixed financial holding company* having its head office outside the *Union* or of a

**third-country insurance or reinsurance undertaking, Member States shall apply the verification provided for in Article 260 only at the level of the ultimate parent undertaking which is a third-country insurance holding company, a *third country mixed financial holding company*, a third-country insurance undertaking or a third-country reinsurance undertaking.**

**However, Member States shall allow their supervisory authorities to decide, in the absence of equivalent supervision referred to in Article 260, to carry out a new verification at a lower level where a parent undertaking of insurance or reinsurance undertakings exists, whether a third-country insurance holding company, a *third country mixed financial holding company*, a third-country insurance undertaking or a third-country reinsurance undertaking."**

Or. en

## **Amendment 79**

### **Proposal for a directive – amending act**

#### **Annex I – point 15**

Directive 98/78/EC

Annex I – section 2.2 – title

*Text proposed by the Commission*

2.2 Intermediate insurance holding companies

*Amendment*

2.2 Intermediate insurance holding companies ***and intermediate mixed financial holding companies***

Or. en



## Amendment 80

### Proposal for a directive – amending act

#### Annex I – point 18

Directive 98/78/EC

Annex II – point 2 – paragraph 2

#### *Text proposed by the Commission*

Where *other* insurance holding companies or non-member country insurance or reinsurance undertakings hold successive participations in the insurance holding company or non-member country insurance or reinsurance undertaking, Member States may apply the calculations provided for in this Annex only at the level of the ultimate parent undertaking of the insurance undertaking or re-insurance undertaking which is an insurance holding company, a mixed financial holding company, a non-member-country insurance undertaking or a non-member-country re-insurance undertaking.

#### *Amendment*

Where insurance holding companies, ***mixed financial holding companies*** or non-member country insurance or reinsurance undertakings hold successive participations in the insurance holding company, ***mixed financial holding companies*** or non-member country insurance or reinsurance undertaking, Member States may apply the calculations provided for in this Annex only at the level of the ultimate parent undertaking of the insurance undertaking or re-insurance undertaking which is an insurance holding company, a mixed financial holding company, a non-member-country insurance undertaking or a non-member-country re-insurance undertaking.

Or. en

## Amendment 81

### Proposal for a directive – amending act

#### Annex I – point 19

Directive 98/78/EC

Annex II – point 3 – paragraph 1

#### *Text proposed by the Commission*

3. The competent authorities shall ensure that calculations analogous to those described in Annex I are carried out at the level of the insurance holding company, ***or*** mixed financial holding company.

#### *Amendment*

3. The competent authorities shall ensure that calculations analogous to those described in Annex I are carried out at the level of the insurance holding company, mixed financial holding company, ***non-member country insurance undertaking or non-member country reinsurance undertaking.***

## Amendment 82

### Proposal for a directive – amending act

#### Annex I – point 19

Directive 98/78/EC

Annex II – point 3 – paragraph 3 – introductory part

#### *Text proposed by the Commission*

For the sole purpose of this calculation, the parent undertaking shall be treated as if it were an insurance undertaking subject to the following conditions:

#### *Amendment*

For the sole purpose of this calculation, the parent undertaking shall be treated as if it were an insurance undertaking **or reinsurance undertaking** subject to the following conditions:

Or. en

## Amendment 83

### Proposal for a directive – amending act

#### Annex III

Directive 2006/48/EC

Annex X – part 3 – section 3 – point 30

#### *Text proposed by the Commission*

30. When an Advanced Measurement Approach is intended to be used by the EU parent credit institution and its subsidiaries, **or by the subsidiaries of an** EU parent financial holding company or an EU parent mixed financial holding company, the application shall include a description of the methodology used for allocating operational risk capital between the different entities of the group.

#### *Amendment*

30. When an Advanced Measurement Approach is intended to be used by the EU parent credit institution and its subsidiaries, **the** EU parent financial holding company **and its subsidiaries** or an EU parent mixed financial holding company **and its subsidiaries**, the application shall include a description of the methodology used for allocating operational risk capital between the different entities of the group.

Or. en

## EXPLANATORY STATEMENT

The Commission intends to improve the supplementary supervision of financial entities in a financial conglomerate in two steps. In the first step the Commission adopted a proposal for a Directive amending the Directives linked to supplementary supervision, in particular Directives 98/78/EC, 2002/87/EC and 2006/48/EC. This proposal deals with the single most urgent technical issue based on a limited review of the existing Directives and it is the subject of this report. In the second step the Commission intends to start a more fundamental review, in the context of developments regarding supplementary supervision. That review is expected to take place at the end to 2011.

The purpose of the Commission's proposal is to provide a so called "quick fix" for a situation that manifested itself in a more problematic way during the financial crisis, but which has been known for almost a decade. It is useful for supervisors to be able to supervise mixed financial holding companies in a similar way as financial holding companies (banking sector) and insurance holding companies (insurance sector). Although the present Directives do not seem to prohibit Member States to adapt their legislation to exert this power over these mixed financial holding companies, a European coordination is useful in order to make this mandatory. In this light, the proposal should have been part of the full review next year.

The Council has arrived to a common view of their amendments for the existing Directives linked to the supplementary supervision. It should be emphasised that the Council proposes to push back the deadline for implementation to a date not earlier than the implementation deadline for Solvency II. With the expected amendment in Omnibus II on the implementation deadline, this implies a full implementation by Member States not earlier than 1 January 2013. In that case, the timeframe of the full review and the implementation of this Directive will collide in time and that again raises questions now about the need, use and relevance for this Directive under these conditions. It should be noted, however, that the proposed application date proposed by the Commission (1 July 2011) is far from realistic.

This Report includes the Parliament's amendments to the Commission proposal. The amendments are also correlated with most of the Council amendments.

The main amendments concern the following issues:

- a) "Lisbonising" of the Financial Conglomerates Directive;
- b) amending Directive 2009/138/EC on Solvency II in a similar way as is proposed for Directive 98/78/EC (Article 3a (new));
- c) ensuring that the new European Supervisory Authorities will issue general guidelines regarding the supervision of the financial conglomerates through the Joint Committee;
- d) improving the transparency of the supervisory activity on the financial conglomerates, including the list and structure of financial conglomerates which will be published.
- e) defining and including mixed financial holding companies in the supplementary supervision;
- f) introducing stress testing at the level of each financial conglomerate;
- g) including alternative investment fund managers into the scope.