



2021/0341(COD)

22.8.2022

AMENDMENTS 330 - 582

Draft report

Jonás Fernández

(PE731.819v02-00)

Amending Directive 2013/36/EU as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks, and amending Directive 2014/59/EU

Proposal for a directive

(COM(2021)0663 – C9-0395/2021 – 2021/0341(COD))

Amendment 330
Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 12

Directive 2013/36/EU

Article 73 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Institutions shall have in place sound, effective and comprehensive strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed in the short, medium and long term time horizon, **including environmental, social and governance risks.**’;”

Amendment

Institutions shall have in place sound, effective and comprehensive strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed in the short, medium and long term time horizon, ’;”

Or. en

Amendment 331

Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 12

Directive 2013/36/EU

Article 73 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Institutions shall have in place sound, effective and comprehensive strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed **in the short, medium and long term time horizon**, including environmental, social and governance risks.’;”

Amendment

Institutions shall have in place sound, effective and comprehensive strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed, including environmental, social and governance risks.’;”

Or. en

Justification

This is to remove unclear and unnecessary requirements for banks. ESG risks are difficult to quantify and therefore repeating the exercise on multiple time horizons would not yield any added value.

Amendment 332

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 13

Directive 2013/36/EU

Article 74 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) effective processes to identify, manage, monitor and report the risks they are or might be exposed to in the short, medium and long term time horizon, ***including environmental, social and governance risks;***

Amendment

(b) effective processes to identify, manage, monitor and report the risks they are or might be exposed to in the short, medium and long term time horizon;

Or. en

Amendment 333

Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 13

Directive 2013/36/EU

Article 74 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) effective processes to identify, manage, monitor and report the risks they are or might be exposed to ***in the short, medium and long term time horizon,*** including environmental, social and governance risks;

Amendment

(b) effective processes to identify, manage, monitor and report the risks they are or might be exposed to, including environmental, social and governance risks;

Or. en

Justification

This is to remove unclear and unnecessary requirements for banks. ESG risks are difficult to quantify and therefore repeating the exercise on multiple time horizons would not yield any added value.

Amendment 334

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 13

Directive 2013/36/EU

Article 74 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

(d) remuneration policies and practices that are consistent with and promote sound and effective risk management.

Amendment

(d) remuneration policies and practices that are consistent with and promote sound and effective risk management, ***including by taking into account environmental, social and governance performance*** .

Or. en

Amendment 335

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point a

Directive 2013/36/EU

Article 76 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the management body approves and at least every two years reviews the strategies and policies for taking up, managing, monitoring and mitigating the risks the institution is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle, ***and those resulting from***

Amendment

1. Member States shall ensure that the management body approves and at least every two years reviews the strategies and policies for taking up, managing, monitoring and mitigating the risks the institution is or might be exposed to, including those posed by the macroeconomic environment in which it operates ***and those*** in relation to the status of the business cycle.

the current, short, medium and long-term impacts of environmental, social and governance factors.;

Or. en

Amendment 336

Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point a

Directive 2013/36/EU

Article 76 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the management body approves and at least every two years reviews the strategies and policies for taking up, managing, monitoring and mitigating the risks the institution is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle, and those resulting from the **current, short, medium and long-term** impacts of environmental, social and governance factors.;

Amendment

1. Member States shall ensure that the management body approves and at least every two years reviews the strategies and policies for taking up, managing, monitoring and mitigating the risks the institution is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle, and those resulting from the impacts of environmental, social and governance factors.;

Or. en

Justification

This is to remove unclear and unnecessary requirements for banks. ESG risks are difficult to quantify and therefore repeating the exercise on multiple time horizons would not yield any added value.

Amendment 337

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

(b) in paragraph 2 the following subparagraph is added:

deleted

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors.;

Or. en

Amendment 338

Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Member States shall ensure that the management body *develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors.;*

Member States shall ensure that, ***in determining the business strategy***, the management body ***takes into account the impact of*** environmental, social and governance factors.

Or. en

Justification

This is to remove unclear and unnecessary requirements for banks. ESG risks are difficult to quantify and therefore repeating the exercise on multiple time horizons would not yield any added value. Furthermore, it is unreasonable to require private companies to align their business models to 'relevant Union policy objections'.

Amendment 339

Paul Tang, René Repasi, Csaba Molnár, Eva Kaili

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors.;

Amendment

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors. ***These plans shall outline the institution's pathway to reduce financed emissions by 55% in 2030 compared to 1990 levels and to have net 0 financed emissions by 2050. These plans shall also outline the institution's pathway to end financing of activities that do significant harm to environmental objectives as stipulated in Article 17 of Regulation (EU) 2019/852, reducing the exposure to such activities by at least 50% by 2035 compared to current levels.***

Or. en

Justification

To prevent the backloading of transitioning efforts, strong intermediate targets shall be included in banks' transition plans. Banks should also end financing of highly damaging activities, as stipulated by taxonomy article 17

Amendment 340

Aurore Lalucq, Paul Tang, Csaba Molnár

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and **strategy** of the institutions, with the relevant Union policy objectives **or broader transition trends towards a sustainable economy** in relation to environmental, social and governance factors.;

Amendment

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and **activities** of the institutions, with the **objective to achieve climate neutrality by 2050 at the latest, set out in Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 (“European Climate Law”), as well as other** relevant Union policy objectives in relation to environmental, social and governance factors.;

Or. en

Amendment 341

Dimitrios Papadimoulis

on behalf of The Left Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the management body develops specific plans **and** quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the

Amendment

Member States shall ensure that the management body develops specific plans, quantifiable targets **and clearly defined procedures** to monitor and address the risks arising in the short, medium and long-

misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors.;

term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors ***and take all necessary measures to prevent these risks to arise in the future.***;

Or. en

Amendment 342

Pascal Canfin, Stéphanie Yon-Courtin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors.;

Amendment

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the ***Regulation (EU) 2021/1119 (European Climate Law)***, and other relevant Union policy objectives or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors.

Or. en

Amendment 343

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives **or broader transition trends towards a sustainable economy** in relation to environmental, social and governance factors.;

Amendment

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model and strategy of the institutions, with the relevant Union policy objectives in relation to environmental, social and governance factors.;

Or. en

Justification

The wording "broader transition trends towards a sustainable economy" is not specific enough. Therefore, the implementation of monitoring risks with respect to "broader transition trends towards a sustainable economy" will cause more confusion than it will add value to mitigating ESG risks. Union policy objectives are far-reaching, specific and adequate. This wording is deleted throughout the directive.

Amendment 344

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the management body develops specific plans and quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model **and** strategy of the institutions, with the relevant Union policy objectives **or broader transition trends towards a sustainable economy in relation to**

Amendment

Member States shall ensure that the management body develops specific plans and **science-based** quantifiable targets to monitor and address the risks arising in the short, medium and long-term from the misalignment of the business model, strategy **and activities** of the institutions, with the relevant Union policy objectives, **including:**

environmental, social and governance factors.;

Or. en

Amendment 345

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(a) to achieve climate neutrality by 2050 at the latest, as set out in Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021, or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors;

(b) to halt biodiversity loss, achieve the goals of the UN Convention of Biological Diversity, and to align with the restoration objectives of the [nature restoration law 2022/0195 (COD)].

Or. en

Amendment 346

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b

Directive 2013/36/EU

Article 76 – paragraph 2 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

The plans referred to in the previous sub-

paragraph shall at least include all the following elements:

(i) a comprehensive strategy and operational actions to reach the objectives of the climate law [Regulation (EU) 2021/1119] and Paris agreement and to protect and restore biodiversity;

(ii) a comprehensive decarbonation strategy, with decarbonation strategies declined at sectoral level;

(iii) intermediate quantifiable targets and milestones with horizons of 5 and 10 years, declined at sectoral level and reviewed at least every 5 years up to 2050;

(iv) sectoral targets, based on European and national transition plans

The targets and measures included in the transition plans shall take into account the latest reports and measures prescribed by the European Scientific Advisory Board on Climate Change. The transitional plans shall adopt an holistic approach and cover all banks activities and clients. The transition plans shall not grant a predominant role to carbon compensation

Or. en

Amendment 347

Pascal Canfin, Stéphanie Yon-Courtin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b a (new)

Directive 2013/36/EU

Article 76 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph is inserted:

‘2a. To ensure coherence with Directive 2021/0104(COD), the transition plans shall include implementing actions

and related financial and investment plans, to ensure that the undertaking's business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5 °C in line with the Paris Agreement; and the objective of achieving climate neutrality by 2050 as established in Regulation (EU) 2021/1119 (European Climate Law), and where relevant, the exposure of the undertaking to coal, oil and gas-related activities. Those plans shall also include emissions on scope 1, scope 2 and, where relevant, scope 3 greenhouse gas emissions; a description of the time-bound targets related to sustainability matters set by the undertaking, including where appropriate absolute greenhouse gas emission reduction targets at least for 2030 and 2050, a description and of the progress the undertaking has made towards achieving those targets, and a specification of whether the undertaking's targets related to environmental matters are based on conclusive scientific evidence.'

Or. en

Amendment 348
Aurore Lalucq, Paul Tang

Proposal for a directive
Article 1 – paragraph 1 – point 14 – point b a (new)
Directive 2013/36/EU
Article 76 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph is inserted:

'2a. The plans referred to in paragraph 2 of this Article should include transition plans with implementing actions and specific, science-based short-term,

medium- and long-term targets, including absolute emission reduction targets for operational and attributable greenhouse gas (GHG) emissions for 2025 and 2030, reviewed every five years up to 2050, to ensure that the institution’s overall business model, strategy and activities are compatible with the transition to a sustainable economy and with the limiting of global warming to 1,5 °C in line with the Paris Agreement with no or limited overshoot and pursuant to the latest recommendations of the IPCC and the European Scientific Advisory Board on Climate Change. For the purposes of this Article, institutions that are required under Article 19a or Article 29a of Directive XXX[CSRD] to report information on environmental, social and governance matters shall integrate their transition plan into their risk management.’

Or. en

Amendment 349

Aurore Lalucq, Paul Tang

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b b (new)

Directive 2013/36/EU

Article 76 – paragraph 4 – subparagraph 2

Present text

The management body in its supervisory function and, where one has been established, the risk committee shall determine the nature, the amount, the format, and the frequency of the information on risk which it is to receive. In order to assist in the establishment of sound remuneration policies and practices, the risk committee shall, without prejudice

Amendment

(bb) in paragraph 4, subparagraph 2 is replaced by the following:

‘The management body in its supervisory function and, where one has been established, the risk committee shall determine the nature, the amount, the format, and the frequency of the information on risk which it is to receive. In order to assist in the establishment of sound remuneration policies and practices, the risk committee shall, without prejudice

to the tasks of the remuneration committee, examine whether incentives provided by the remuneration system take into consideration risk, capital, liquidity and the likelihood and timing of earnings.

to the tasks of the remuneration committee, examine whether incentives provided by the remuneration system take into consideration risk, ***including those resulting from the current, short, medium and long-term impacts of environmental, social and governance factors***, capital, liquidity and the likelihood and timing of earnings.'

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02013L0036-20150101>

Amendment 350

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point b a (new)

Directive 2013/36/EU

Article 76 – paragraph 4 – subparagraph 2

Present text

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

Amendment

(ba) in paragraph 4, subparagraph 2 is replaced by the following:

‘The management body in its supervisory function and, where one has been established, the risk committee, shall determine the nature, the amount, the format, and the frequency of the information on risk which it is to receive. In order to assist in the establishment of sound remuneration policies and practices, the risk committee shall, without prejudice to the tasks of the remuneration committee, examine whether incentives provided by the remuneration system take into consideration risk, ***including those resulting from the current, short, medium and long-term impacts of environmental, social and governance factors***, capital, liquidity and the likelihood and timing of earnings.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02013L0036-20150101>

Amendment 351

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point c

Directive 2013/36/EU

Article 76 – paragraph 5 – subparagraph 1

Text proposed by the Commission

5. Member States shall, in accordance with the proportionality requirement laid down in Article 7(2) of Commission Directive 2006/73/EC^{*11}, ensure that institutions have internal control functions independent from the operational functions and which shall have sufficient authority, stature, resources and access to the management body.

Amendment

5. Member States shall, in accordance with the proportionality requirement laid down in Article 7(2) of Commission Directive 2006/73/EC^{*11}, ensure that institutions have internal control functions independent from the operational functions and which shall have sufficient authority, stature, resources and **direct** access to the management body.

Amendment 352

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point c a (new)

Directive 2013/36/EU

Article 76 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(ca) the following paragraph is added:

'5a. In order to specify the content and format of the transition plans referred to in paragraph 2 of this Article, and based on the technical advice from the EBA and

the European Financial Reporting Advisory Group (EFRAG), the Commission is empowered to adopt delegated acts in accordance with Article 145. The Commission shall, at least every three years after its first date of application, review any delegated act adopted pursuant to this Article, based on the technical advice of the EFRAG, and where necessary shall amend such delegated act to take into account relevant developments, including with regard to international standards.'

Or. en

Amendment 353
Luis Garicano

Proposal for a directive
Article 1 – paragraph 1 – point 15 – point b
Directive 2013/36/EU
Article 78 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Institutions shall submit the results of their calculations referred to in the first subparagraph together with an explanation of the methodologies used to produce them and any qualitative information, as requested by EBA, that can explain the impact of these calculations on own funds requirements, to the competent authorities at least annually, ***but with the possibility for EBA to conduct*** the exercise biennially ***after the exercise has run five times.***

Amendment

Institutions shall submit the results of their calculations referred to in the first subparagraph together with an explanation of the methodologies used to produce them and any qualitative information, as requested by EBA, that can explain the impact of these calculations on own funds requirements, to the competent authorities at least annually, ***unless EBA conducts*** the exercise biennially, ***while the frequency of the submission may differ in relation to the different approaches referred to in points (a), (b) and (c) of the first subparagraph.***

Or. en

Justification

Suggested by the ECB

Amendment 354
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2013/36/EU
Article 87 a

Text proposed by the Commission

Amendment

(17) a new Article 87a is inserted:

deleted

‘Article 87a

Environmental, social and governance risks

[...]

Or. en

Amendment 355
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2013/36/EU
Article 87 a – paragraph 2

Text proposed by the Commission

Amendment

2. The strategies, policies, processes and systems referred to in paragraph 1 shall ***be proportionate to the scale, nature and complexity of the environmental, social and governance risks of the business model and scope of the institution’s activities, and*** consider short, medium and a long-term horizon of at least 10 years.

2. The strategies, policies, processes and systems referred to in paragraph 1 shall consider short, medium and a long-term horizon of at least 10 years.

Or. en

Amendment 356
Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2013/36/EU
Article 87 a – paragraph 2

Text proposed by the Commission

2. The strategies, policies, processes and systems referred to in paragraph 1 shall be proportionate to the scale, nature and complexity of the environmental, social and governance risks of the business model and scope of the institution's activities, **and consider short, medium and a long-term horizon of at least 10 years.**

Amendment

2. The strategies, policies, processes and systems referred to in paragraph 1 shall be proportionate to the scale, nature and complexity of the environmental, social and governance risks of the business model and scope of the institution's activities.

Or. en

Justification

This is to remove unclear and unnecessary requirements for banks. ESG risks are difficult to quantify and therefore repeating the exercise on multiple time horizons would not yield any added value.

Amendment 357
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2013/36/EU
Article 87 a – paragraph 3

Text proposed by the Commission

3. Competent authorities shall ensure that institutions test their resilience to long-term negative impacts of environmental, social and governance factors, both under baseline and adverse scenarios within a given timeframe, starting with climate-related factors. For the testing, competent authorities shall ensure that institutions include a number of environmental, and social and governance scenarios reflecting potential impacts of environmental and social changes and associated public

Amendment

3. Competent authorities shall ensure that institutions test their resilience to long-term negative impacts of environmental, social and governance factors, both under baseline and adverse scenarios within a given timeframe, starting with climate-related factors. For the testing, competent authorities shall ensure that institutions include a number of environmental, and social and governance scenarios reflecting potential impacts of environmental and social changes and associated public

policies on the long-term business environment.

policies on the long-term business environment. ***Competent authorities shall ensure that for the testing, institutions use credible scenarios, based on the scenarios elaborated by international organisations.***

Or. en

Amendment 358

Linea Sogaard-Lidell, Billy Kelleher, Engin Eroglu, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 4

Text proposed by the Commission

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, ***including the plans to be prepared in accordance with Article 76, as well as the progress made and the risks to adapt their business models to the relevant policy objectives of the Union or broader transition trends towards a sustainable economy,*** taking into account sustainability related product offering, transition finance policies, related loan origination policies, ***and environmental, social and governance related targets and limits.***

Amendment

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, taking into account, ***for example,*** sustainability related product offering, transition finance policies ***and*** related loan origination policies.

Or. en

Justification

It is unreasonable to require private companies to align their business models to 'relevant Union policy objectives'.

Amendment 359

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 4

Text proposed by the Commission

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made **and the risks** to adapt their business models to the relevant policy objectives of the Union or broader transition trends towards a sustainable economy, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

Amendment

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made **towards achieving the targets set in accordance with the transition plans referred to in that Article in order** to adapt their business models to the relevant policy objectives of the Union or broader transition trends towards a sustainable economy, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

Where relevant, for the assessment referred to in the previous sub-paragraph, Competent authorities may cooperate with authorities or public bodies in charge of climate change and environmental supervision.

Or. en

Amendment 360

Pascal Canfin

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 4

Text proposed by the Commission

4. Competent authorities shall assess

Amendment

4. Competent authorities shall assess

and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made and the risks to adapt their business models to the relevant policy objectives of the Union or broader transition trends towards a sustainable economy, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made and the risks to adapt their business models to the relevant policy objectives of the Union or broader transition trends towards a sustainable economy, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits. ***Competent authorities should verify the robustness of those plans as part of the supervisory review and evaluation process.***

Or. fr

Amendment 361

Pascal Canfin, Gilles Boyer, Stéphanie Yon-Courtin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 4

Text proposed by the Commission

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made and the risks to adapt their business models to the relevant policy objectives of the Union or broader transition trends towards a sustainable economy, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

Amendment

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made and the risks ***towards achieving the targets set in accordance with Article 76 in order*** to adapt their business models to the relevant policy objectives of the Union or broader transition trends towards a sustainable economy, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance

related targets and limits.

Or. en

Amendment 362

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 4

Text proposed by the Commission

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made and the risks to adapt their business models to the relevant policy objectives of the Union **or broader transition trends towards a sustainable economy**, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

Amendment

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made and the risks to adapt their business models to the relevant policy objectives of the Union, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

Or. en

Justification

The wording "broader transition trends towards a sustainable economy" is not specific enough. Therefore, the implementation of monitoring risks with respect to "broader transition trends towards a sustainable economy" will cause more confusion than it will add value to mitigating ESG risks. Union policy objectives are far-reaching, specific and adequate. This working is deleted throughout the directive.

Amendment 363

Aurore Lalucq, Paul Tang

Proposal for a directive

Article 1 – paragraph 1 – point 17

PE735.693v01-00

24/165

AM1261620EN.docx

Text proposed by the Commission

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made **and the risks** to adapt their business models to the relevant policy objectives of the Union **or broader transition trends towards a sustainable economy**, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

Amendment

4. Competent authorities shall assess and monitor developments of institutions' practices concerning their environmental, social and governance strategy and risk management, including the plans to be prepared in accordance with Article 76, as well as the progress made **towards achieving the targets set in accordance with Article 76 in order** to adapt their business models to the relevant policy objectives of the Union, taking into account sustainability related product offering, transition finance policies, related loan origination policies, and environmental, social and governance related targets and limits.

Or. en

Amendment 364
Aurore Lalucq, Paul Tang

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2013/36/EU
Article 87 a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall adopt delegated acts in accordance with Article 148 to provide for the standards and reference methodologies for the transition plans and targets. Those standards shall specify the requirements that institutions are to fulfil in accordance with Article 76(2) and be in line with the requirements of the Directive XXX [CSRD]. The Commission shall, at least every three years after its date of application, review any delegated act adopted pursuant to this Article, taking into consideration the

technical advice of the European Financial Reporting Advisory Group (EFRAG), and where necessary shall amend such delegated act to take into account relevant developments, including developments with regard to international standards.

Or. en

Amendment 365

Aurore Lalucq, Paul Tang

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) minimum standards and reference methodologies for the identification, measurement, management and monitoring of environmental, social and governance risks; *deleted*

Or. en

Amendment 366

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) the content of plans to be prepared in accordance with Article 76, which shall include specific timelines and intermediate quantifiable targets and milestones, in order to address the risks from misalignment of the business model *deleted*

and strategy of institutions with the relevant policy objectives of the Union, or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors;

Or. en

Justification

Replaced by Delegated Act under Article 76

Amendment 367

Linea Søgaard-Lidell, Billy Kelleher, Engin Eroglu, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) the content of plans to be prepared in accordance with Article 76, which shall include specific timelines and intermediate quantifiable targets and milestones, in order to address the risks from misalignment of the business model and strategy of institutions with the relevant policy objectives of the Union, or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors; *deleted*

Or. en

Justification

It is unreasonable to require private companies to align their business models to 'relevant Union policy objectives'.

Amendment 368

Aurore Lalucq, Paul Tang, Csaba Molnár

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point b

Text proposed by the Commission

(b) the content of plans to be prepared in accordance with Article 76, which shall include specific timelines and intermediate quantifiable targets and milestones, in order to address the risks from misalignment of the business model and strategy of institutions with the relevant policy objectives of the Union, **or broader transition trends towards a sustainable economy in relation to environmental, social and governance factors;**

Amendment

(b) the content of plans to be prepared in accordance with Article 76, which shall include specific timelines and intermediate quantifiable targets and milestones, in order to address the risks from misalignment of the business model and strategy of institutions with the **objective to achieve climate neutrality by 2050 at the latest, set out in Regulation(EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 (“European Climate Law”)**, as well as **other** relevant policy objectives of the Union;

Or. en

Amendment 369

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point b

Text proposed by the Commission

(b) the content of plans to be prepared in accordance with Article 76, which shall include specific timelines and intermediate quantifiable targets and milestones, in order to address the risks from misalignment of the business model and strategy of institutions with the relevant policy objectives of the Union, **or broader transition trends towards a sustainable economy** in relation to environmental, social and governance factors;

Amendment

(b) the content of plans to be prepared in accordance with Article 76, which shall include specific timelines and intermediate quantifiable targets and milestones, in order to address the risks from misalignment of the business model and strategy of institutions with the relevant policy objectives of the Union, in relation to environmental, social and governance factors;

Justification

The wording "broader transition trends towards a sustainable economy" is not specific enough. Therefore, the implementation of monitoring risks with respect to "broader transition trends towards a sustainable economy" will cause more confusion than it will add value to mitigating ESG risks. Union policy objectives are far-reaching, specific and adequate. This working is deleted throughout the directive.

Amendment 370

Linea Søgaard-Lidell, Billy Kelleher, Engin Eroglu, Nicola Beer

Proposal for a directive**Article 1 – paragraph 1 – point 17**

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point c

Text proposed by the Commission

(c) qualitative and quantitative criteria for the assessment of the impact of environmental, social and governance risks on the financial stability of institutions ***in the short, medium and long term;***

Amendment

(c) qualitative and quantitative criteria for the assessment of the impact of environmental, social and governance risks on the financial stability of institutions;

Justification

It is unreasonable to require private companies to align their business models to 'relevant Union policy objectives'.

Amendment 371

Paul Tang, René Repasi, Csaba Molnár, Eva Kaili

Proposal for a directive**Article 1 – paragraph 1 – point 17**

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point d a (new)

*Text proposed by the Commission**Amendment*

(da) timelines for banks to reduce their financed emissions and their financing of activities that significantly harm

environmental activities as outlined in Article 19 of Regulation (EU) 2019/852 so that adherence to the EU's climate and environmental ambitions is guaranteed.

Or. en

Justification

EBA input on when transitions are in line with the EU's climate and environmental objectives will help banks create realistic and ambitious transition plans

Amendment 372

Pascal Canfin, Gilles Boyer, Stéphanie Yon-Courtin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 17

Directive 2013/36/EU

Article 87 a – paragraph 5 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the methodologies and the content of the plans, targets and criteria mentioned in (a), (b), (c) and (d) of this paragraph shall be aligned, where relevant, to sustainability reporting as defined in Directive [CSRD]

Or. en

Amendment 373

Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer, Andrus Ansip

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3

Text proposed by the Commission

Amendment

(b) in Article 88, the following paragraph 3 is added: *deleted*

‘3. Member States shall ensure that institutions draw up, maintain and update

individual statements setting out the roles and duties of each member of the management body, senior management and key function holders and a mapping of duties, including details of the reporting lines and the lines of responsibility, and the persons who are part of the governance arrangements as referred to in Article 74 (1) and their duties approved by the management body.

Member States shall ensure that the statements of duties and the mapping of the duties are made available and communicated in due time, upon request, to the competent authorities.

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, ensuring the implementation of this paragraph and its consistent application. EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive].’

Or. en

Justification

It is difficult to see the added value of such statements. More likely, this exercise will only serve as a bureaucratic burden.

Amendment 374

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles *and duties of each member of the management body, senior management*

Amendment

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles *of* key function holders and the persons who are part of the governance

and key function holders ***and a mapping of duties, including details of the reporting lines and the lines of responsibility***, and the persons who are part of the governance arrangements as referred to in Article 74 (1) ***and their duties approved by the management body***.

arrangements as referred to in Article 74.

Or. en

Amendment 375

Raffaele Fitto

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles ***and duties of each member of the management body, senior management and*** key function holders ***and a mapping of duties, including details of the reporting lines and the lines of responsibility***, and the persons who are part of the governance arrangements as referred to in Article 74 (1) ***and their duties approved by the management body***.

Amendment

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles key function holders, and the persons who are part of the governance arrangements as referred to in Article 74 (1).

Or. en

Amendment 376

Carlo Calenda

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles ***and duties of each member of the management body, senior management and key function holders and a mapping of duties, including details of the reporting lines and the lines of responsibility***, and the persons who are part of the governance arrangements as referred to in Article 74 (1) ***and their duties approved by the management body***.

Amendment

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles ***of*** key function holders and the persons who are part of the governance arrangements as referred to in Article 74 (1)

Or. en

Amendment 377

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles ***and duties of each member of the management body, senior management and key function holders and a mapping of duties, including details of the reporting lines and the lines of responsibility***, and the persons who are part of the governance arrangements as referred to in Article 74 (1) ***and their duties approved by the management body***.

Amendment

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles ***of*** key function holders and the persons who are part of the governance arrangements as referred to in Article 74 (1).

Or. en

Amendment 378

Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles **and duties of each member of the management body, senior management and key function holders and a mapping of duties, including details of the reporting lines and the lines of responsibility**, and the persons who are part of the governance arrangements as referred to in Article 74 (1) **and their duties approved by the management body**.

Amendment

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles **of** key function holders, and the persons who are part of the governance arrangements as referred to in Article 74 (1).

Or. en

Amendment 379

Gianna Gancia

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles **and duties of each member of the management body, senior management and key function holders and a mapping of duties, including details of the reporting lines and the lines of responsibility**, and the persons who are part of the governance arrangements as referred to in Article 74 (1) **and their duties approved by the management body**.

Amendment

3. Member States shall ensure that institutions draw up, maintain and update individual statements setting out the roles **of** key function holders, and the persons who are part of the governance arrangements as referred to in Article 74 (1).

Or. en

Amendment 380
Gianna Gancia

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
Directive 2013/36/EU
Article 88 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the statements of ***duties and the mapping of the duties*** are made available and communicated in due time, upon request, to the competent authorities.

Amendment

Member States shall ensure that the statements of ***roles*** are made available and communicated in due time, upon request, to the competent authorities.

Or. en

Amendment 381
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
Directive 2013/36/EU
Article 88 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the statements of ***duties and the mapping of the duties*** are made available and communicated in due time, upon request, to the competent authorities.

Amendment

Member States shall ensure that the statements of ***roles*** are made available and communicated in due time, upon request, to the competent authorities.

Or. en

Amendment 382
Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
Directive 36/2013/EU
Article 88 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the statements of ***duties and the mapping of the duties*** are made available and communicated in due time, upon request, to the competent authorities.

Amendment

Member States shall ensure that the statements of ***roles*** are made available and communicated in due time, upon request, to the competent authorities.

Or. en

Amendment 383

Raffaele Fitto

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the statements of ***duties and the mapping of the duties*** are made available and communicated in due time, upon request, to the competent authorities.

Amendment

Member States shall ensure that the statements of ***roles*** are made available and communicated in due time, upon request, to the competent authorities.

Or. en

Amendment 384

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that the statements of ***duties and the mapping of the duties*** are made available and communicated in due time, upon request, to the competent authorities.

Amendment

Member States shall ensure that the statements of ***roles*** are made available and communicated in due time, upon request, to the competent authorities.

Amendment 385
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
Directive 2013/36/EU
Article 88 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, ensuring the implementation of this paragraph and its consistent application. EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive]. *deleted*

Amendment 386
Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
Directive 2013/36/EU
Article 88 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, ensuring the implementation of this paragraph and its consistent application. EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive]. *deleted*

Amendment 387

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, ensuring the implementation of this paragraph and its consistent application. EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive]. ***deleted***

Or. en

Amendment 388

Gianna Gancia

Proposal for a directive

Article 1 – paragraph 1 – point 18 – point b

Directive 2013/36/EU

Article 88 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, ensuring the implementation of this paragraph and its consistent application. EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive]. ***deleted***

Or. en

Amendment 389

Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
D 2013/36/EU
Article 88 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, ensuring the implementation of this paragraph and its consistent application. EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive]. **deleted**

Or. en

Amendment 390
Raffaele Fitto

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
Directive 2013/36/EU
Article 88 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, ensuring the implementation of this paragraph and its consistent application. EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive]. **deleted**

Or. en

Amendment 391
Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2013/36/EU
Article 91 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Institutions and financial holding companies and mixed financial holding companies, as approved pursuant to Article 21a(1), (“the entities”), shall have the primary responsibility for ensuring that members of the management body are at all times of good repute and possess sufficient knowledge, skills and experience to perform their duties and fulfil the requirements set out in paragraphs 2 to 8 of this Article.

Amendment

1. Institutions and financial holding companies and mixed financial holding companies, as approved pursuant to Article 21a(1), (“the entities”), shall have the primary responsibility for ensuring that members of the management body are at all times of good repute, ***act with honesty, integrity and independence*** and possess sufficient knowledge, skills and experience to perform their duties and fulfil the requirements set out in paragraphs 2 to 8 of this Article. ***The absence of a criminal conviction or of ongoing prosecutions for a criminal offence shall not in itself be sufficient to fulfil the requirement to be of good repute and act with honesty and integrity.***

Or. en

Amendment 392

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2013/36/EU

Article 91 – paragraph 4

Text proposed by the Commission

4. The management body shall possess collective knowledge, skills and experience to be able to adequately understand the institution's activities, as well as the associated risks it is exposed to, in the short, medium and long term, taking into account the environmental, social and governance factors. The overall composition of the management body shall reflect an adequately broad range of experience.

Amendment

4. The management body shall possess collective knowledge, skills and experience to be able to adequately understand the institution's activities, as well as the associated risks it is exposed to, in the short, medium and long term, taking into account the environmental, social and governance factors. The overall composition of the management body shall ***be sufficiently diversified to*** reflect an adequately broad range of experience ***and perspectives.***

Amendment 393
Pedro Marques

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2013/36/EU
Article 91 – paragraph 6 – subparagraph 1 – point a

Text proposed by the Commission

(a) executive or non-executive directorships held within the same group.

Amendment

(a) executive or non-executive directorships held within the same group ***and/or in undertakings, including non-financial entities, in which the group holding company holds a qualifying holding when the relevant person is also a director in the group holding company.***

Amendment 394
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2013/36/EU
Article 91 – paragraph 9

Text proposed by the Commission

9. The entities shall devote adequate human and financial resources to the induction and training of members of the management body.

Amendment

9. The entities shall devote adequate human and financial resources to the induction and training of members of the management body, ***including on environmental, social and governance risks and on emerging risks such as cyber-security.***

Amendment 395

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2013/36/EU

Article 91 – paragraph 10

Text proposed by the Commission

10. Member States or competent authorities shall require entities and their respective nomination committees, where established, to ***engage a broad set of qualities and competences when recruiting members to*** the management body ***and for*** that purpose ***to*** put in place a policy promoting diversity in the management body.

Amendment

10. Member States or competent authorities shall require entities and their respective nomination committees, where established, to ***promote diversity and gender-balance in*** the management body. ***To*** that purpose, ***institutions shall*** put in place a policy promoting diversity in the management body, ***including setting a target for the minimum representation of the underrepresented gender. This policy shall also include concrete measures to balance genders***

Or. en

Amendment 396

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2013/36/EU

Article 91 – paragraph 12 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the criteria to determine where there are reasonable grounds to suspect that money laundering or terrorist financing within the meaning of Article 1 of Directive (EU) 2015/849 is being or has been committed or attempted, or there is increased risk thereof in connection with an institution;

Or. en

Amendment 397

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2013/36/EU

Article 91 – paragraph 12 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For the purpose of developing the guidelines laid down in paragraph (ea), EBA shall work in close cooperation with the Anti-Money Laundering Authority and the European Securities and Markets Authority.

Or. en

Amendment 398

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2013/36/EU

Article 91 – paragraph 13

Text proposed by the Commission

Amendment

13. This Article and Articles 91a to 91d shall be without prejudice to provisions of the Member States on the representation of employees in the management body.;

13. This Article and Articles 91a to 91d shall be without prejudice to provisions of the Member States on the representation of employees in the management body, ***the appointment by regional or local elected bodies or the appointments where the management body does not have any competence in the process of selecting and appointing its members.***;

Or. en

Justification

This amendment aims to accommodate for specific appointments by employee representational bodies, by regional or local elected bodies or where the management body

does not have any competence in the process of selecting and appointing its members.

Amendment 399

Joachim Schuster, René Repasi

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2013/36/EU

Article 91 – paragraph 13

Text proposed by the Commission

13. This Article and Articles 91a to 91d shall be without prejudice to provisions of the Member States on the representation of employees in the management body.?’;

Amendment

13. This Article and Articles 91a to 91d shall be without prejudice to provisions of the Member States on the representation of employees in the management body **and on the management body in its supervisory function as provided for by national law.**?’;

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 400

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/13/EU

Article 91 a to 91 d

Text proposed by the Commission

(20) the following Articles 91a to 91d are inserted:

[...]

Amendment

deleted

Or. en

Amendment 401
Engin Eroglu

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a to 91 d

Text proposed by the Commission

Amendment

(20) the following Articles 91a to 91d are deleted
inserted:

[...]

Or. en

Justification

Deletion of the whole Article. The Commission wants to establish a detailed process for suitability assessments of new members of the management body by the entities. Unfortunately, the CRD draft doesn't consider the special structures of local savings banks and contradicts the right of local self-government. In some Member States, an internal assessment of the members of the supervisory board by savings banks themselves would run counter to national legislation and the democratic selection process by the representatives of the local authority. The savings banks in Germany are institutions under public law with legal capacity to fulfil certain public tasks incumbent on them in the area of which they operate. From this status, it follows that the elected representative body of the local authority determines the composition of the supervisory board of the local savings bank. In addition, some institutions have "ex-officio" members in the supervisory board. They are elected by the local population as heads of the administrative body and belong to the supervisory board by law (e.g. mayor, district administrator). The savings banks are not entitled to take a decision on this or to question it through their own (internal) suitability assessments of new members. The proposed ex-ante procedure is also not feasible. New members of the supervisory board of savings banks are only determined after their appointment by the local council or after election to the office as the head of the administrative body (e.g. ex-officio members like a mayor or county president). Therefore, we urge for deletion of Art. 91a CRD VI-Draft. It is necessary to maintain the ex-post suitability assessment by the supervisory authority for institutions, which cannot conduct any internal suitability assessment of members of the supervisory board.

Amendment 402
Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer, Andrus Ansip

Proposal for a directive
Article 1 – paragraph 1 – point 20

Text proposed by the Commission

Amendment

2. The entities shall assess the suitability of members of the management body before those members take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

deleted

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Justification

The ex-ante approach for assessing the suitability of members of management bodies will result in unacceptable postponement of appointment of management to the detriment of bank's daily activities.

Amendment 403
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

2. The entities shall assess the suitability of members of the management body before those members take up their positions.

2. Small, non-complex institutions within the meaning of Art. 4 (1) No. 145 CRR II, may assess the suitability of members of the management body after those members take up their positions. All other entities shall assess the suitability of

Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall

ensure that the member concerned does not take up the position considered.

members of the management body before those members take up their positions.

Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall:

(a) ensure that the member concerned does not take up the position considered, in the case that the suitability assessment is completed before those members take up their positions;

(b) remove such members from the management body or to take the measures necessary to ensure that such members are suitable for the position concerned, in the case that those members take up their positions before the completion of the assessment.

Or. en

Justification

This amendment aims to introduce the proportionality principle in the suitability assessment process. Proportionality needs to be insured for SNCIs, as ex-post assessments pose less of a risk when compared to other entities.

Amendment 404

Joachim Schuster, René Repasi

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The entities shall assess the suitability of members of the management body before those members take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that

Amendment

2. The entities shall assess the suitability of members of the management body before those members take up their positions. ***By derogation from the first sentence, in case of members of the management body in its supervisory function the assessment can be performed before those members take up their***

the member concerned does not take up the position considered.

positions or alternatively without undue delay after the appointment. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ***either take measures to mitigate and solve the discrepancy within an appropriate time or*** ensure that the member concerned does not take up the position considered. ***If these measures are not successful or according to corporate law not possible, the entity has to inform the competent authority without undue delay.***

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 405

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The ***entities shall assess*** the suitability ***of*** members of the management body ***before those members*** take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Amendment

2. The ***timing of*** the suitability ***assessment is subject to national law and takes place before or after the*** members of the management body take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Or. en

Amendment 406
Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 20
D 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The entities shall assess the suitability of members of the management body before those members take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Amendment

2. ***The timing of the suitability assessment is subject to national law and takes place before or after*** the entities shall assess the suitability of members of the management body before those members take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Or. en

Amendment 407
Raffaele Fitto

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The ***entities shall assess*** the suitability ***of*** members of the management body ***before those members*** take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Amendment

2. The ***timing of*** the suitability ***assessment is subject to national law and takes place before or after the*** members of the management body take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the

position considered.

Or. en

Amendment 408

Gianna Gancia

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The **entities shall assess** the suitability **of** members of the management body **before those members** take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Amendment

2. The **timing of** the suitability **assessment is subject to national law and takes place before or after the** members of the management body take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Or. en

Amendment 409

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The **entities shall assess** the suitability **of** members of the management body **before those members** take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in

Amendment

2. The **timing of** the suitability **assessment is subject to national law and takes place before or after the** members of the management body take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the

paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Or. en

Amendment 410
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The **entities shall assess** the suitability **of** members of the management body **before those members** take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Amendment

2. The **timing of** the suitability **assessment is subject to national law and takes place before or after the** members of the management body take up their positions. Where the entities conclude, based on the suitability assessment, that the member concerned does not fulfil the criteria and requirements set out in paragraph 1, the entities shall ensure that the member concerned does not take up the position considered.

Or. en

Amendment 411
Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Without prejudice to the timing provided for in national law, where it is strictly necessary to replace a member of the management body immediately, the

entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 412
Andreas Schwab

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the entities or their management bodies are not involved in the selection of members of the management body in its supervisory function under national law, the first paragraph shall not apply and a suitability assessment is conducted by the competent authority in accordance with Article 91b.

Or. en

Amendment 413
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

deleted

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 414**Ville Niinistö**

on behalf of the Verts/ALE Group

Proposal for a directive**Article 1 – paragraph 1 – point 20**

Directive 2013/36/EU

Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may *assess the* suitability of such replacement members *after* they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

However, where it is strictly necessary to replace a member of the management body immediately, the entities may *conduct a lighter* suitability *assessment* of such replacement members *before* they have taken up their positions. *A complete assessment shall be performed once the replacement members have taken up their positions. EBA shall issue guidelines specifying the minimum elements to be included in the lighter assessment and providing guidance under which circumstances a replacement could be considered as necessary and urgent.* The entities shall be able to duly justify such immediate replacement.

Amendment 415**Danuta Maria Hübner****Proposal for a directive****Article 1 – paragraph 1 – point 20**

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may **assess the** suitability of such replacement members **after** they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

However, where it is strictly necessary to replace a member of the management body immediately, the entities may **conduct a lighter suitability assessment** of such replacement members **before** they have taken up their positions. **A complete assessment shall be carried out as soon as possible after the replacement members have taken up their positions. EBA shall issue guidelines specifying the conditions for conducting a lighter assessment, including guidance on the cases that might be considered urgent.** The entities shall be able to duly justify such immediate replacement.

Or. en

Justification

The Commission proposal may lead to the appointment of unsuitable candidates. Therefore, the amendment proposes that entities should be required to perform a lighter suitability assessment before members of the management body take up their position even in the most exceptional cases. This should retain the flexibility granted to entities while ensuring that the candidates do not pose risks. The EBA guidelines will specify the cases in which such a procedure would be admissible and the scope of the lighter suitability assessment.

Amendment 416

Luis Garicano, Luděk Niedermayer

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may **assess the** suitability of such replacement members **after** they have taken up their positions.

Amendment

However, where it is strictly necessary to replace a member of the management body immediately, the entities may **conduct a lighter suitability assessment** of such replacement members **before** they have

The entities shall be able to duly justify such immediate replacement.

taken up their positions. *A complete assessment shall be carried out as soon as possible after the replacement members have taken up their positions. EBA shall issue guidelines specifying the conditions for conducting a lighter assessment, including guidance on the cases that might be considered urgent.* The entities shall be able to duly justify such immediate replacement.

Or. en

Justification

Suggested by the ECB

Amendment 417

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall *be able to* duly justify such immediate replacement.

Amendment

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall duly justify *the need for* such immediate replacement, *and carry out a full assessment after the replacement members have taken up their positions.*

Or. en

Amendment 418

Antonio Tajani, Herbert Dorfmann

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive (EU) 36/2013
Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

Without prejudice to the timing provided for in national law, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 419
Raffaele Fitto

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

Without prejudice to the timing provided for in national law, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 420
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 20

Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

Without prejudice to the timing provided for in national law, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 421
Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 20
D 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

Without prejudice to the timing provided for in national law, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 422
Gianna Gancia

Proposal for a directive
Article 1 – paragraph 1 – point 20

Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

Without prejudice to the timing provided for in national law, where it is strictly necessary to replace a member of the management body immediately, the entities may assess the suitability of such replacement members after they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 423
Dimitrios Papadimoulis
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, where it is strictly necessary to replace a member of the management body immediately, the entities **may** assess the suitability of such replacement members **after** they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Amendment

However, where it is strictly necessary to replace a member of the management body immediately, the entities **should** assess the suitability of such replacement members **before** they have taken up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 424
Joachim Schuster, Paul Tang

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. As soon as any new facts or other issues that may affect the suitability of the member of the management body are known to the entities, the entities shall inform without undue delay the relevant competent authorities thereof.

[copied from Art. 91b (5) CRD 6]

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 425
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 a – paragraph 4

Text proposed by the Commission

Amendment

4. The entities that renew the mandate of members of the management body shall inform ***in writing*** the competent authorities within 15 working days of the date of that renewal of the mandate.

4. The entities that renew the mandate of members of the management body shall inform the competent authorities ***with undue delay, the latest*** within 15 working days of the date of that renewal of the mandate.

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 426
Andreas Schwab

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 2

Text proposed by the Commission

2. For the assessment referred to in paragraph 1, the entities shall submit the initial application of the relevant member of the management body to the competent authorities without undue delay after the internal suitability assessment is completed.

That application shall be accompanied by all the information and documentation necessary for competent authorities to carry out the suitability assessment effectively.

Amendment

2. For the assessment referred to in paragraph 1, the entities shall submit the initial application of the relevant member of the management body to the competent authorities without undue delay after the internal suitability assessment is completed.

In cases where there is no internal suitability assessment by the entity in line with Article 91a paragraph 2 the application shall be provided as soon as possible after the selection of the member and at the latest without undue delay after the member takes up his position.

The application shall be accompanied by all the information and documentation necessary for competent authorities to carry out the suitability assessment effectively.

Or. en

Amendment 427
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 1

Text proposed by the Commission

Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2 within two

Amendment

deleted

working days.

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 428

Luis Garicano, Luděk Niedermayer

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Competent authorities shall ***acknowledge in writing the*** receipt of the application and ***the*** documentation ***required in accordance with paragraph 2 within two working days.***

Amendment

3. Competent authorities shall ***complete the suitability assessment within 80 working days ("assessment period") as from the date of the written acknowledgement of*** receipt of the ***complete*** application and ***underlying*** documentation.

Or. en

Justification

Suggested by the ECB

Amendment 429

Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Competent authorities shall **acknowledge in writing the** receipt of the application and **the** documentation **required in accordance with paragraph 2 within two working days.**

Amendment

3. Competent authorities shall **complete the suitability assessment within 80 working days ("assessment period") as from the date of the written acknowledgment of** receipt of the **complete** application and **underlying** documentation.
(This amendment should also be applied to Article 91d ▸ paragraph 3.)

Or. en

Justification

The suggested deadline of only 2 days for the written acknowledgement of receipt in both Articles 91b(3) and 91d(3) would in practice be extremely challenging to meet by all competent authorities involved due to the very high inflow of fit and proper applications and extensive documentation that needs to be checked. Specifically, in the many cases where the application concerns multiple appointees, this deadline might not be achievable for supervisors. Overall, this provision may jeopardise meeting the given deadline for fit and proper procedures.

Amendment 430

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2 **within two working days.**

Amendment

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph **as soon as possible.**

Or. en

Amendment 431

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2 ***within two working days***.

Amendment

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2.

Or. en

Amendment 432

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Competent authorities may consult, in the context of their verifications, and on a risk-sensitive basis, the authorities competent for the supervision of anti-money laundering in line with Directive (EU) 2015/849 and provide them with all the relevant information concerning the members of the management body. Competent authorities may also consult the Central AML/CFT database referred to in Article 11 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Or. en

Amendment 433
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within 80 working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph. ***deleted***

Or. en

Justification

Replaced by previous amendment text.

Amendment 434
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within 80 working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph. ***deleted***

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit &

proper assessments should respect and be in line with i.e. national corporate law.

Amendment 435
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **40** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Amendment 436
Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **40** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Amendment 437
Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **40** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Justification

This amendment aims to reduce the initial assessment period to 40 days, as an assessment period of 80 days can lead to rigidity in leadership processes, which can affect the performance of companies negatively.

Amendment 438

Linea Søgaard-Lidell, Engin Eroglu, Nicola Beer, Andrus Ansip

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **20** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Justification

The ex-ante approach for assessing the suitability of members of management bodies will result in unacceptable postponement of appointment of management to the detriment of bank's daily activities.

Amendment 439
Gianna Gancia

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **40** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Amendment 440
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **60** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Amendment 441
Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **40** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Amendment 442
Raffaele Fitto

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **40** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Amendment 443
Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall complete the assessment referred to in paragraph 1 within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Amendment

Competent authorities shall complete the assessment referred to in paragraph 1 within **40** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph of this paragraph.

Or. en

Amendment 444
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. ***Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.***

Amendment

deleted

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the

well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 445

Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request **from the entities** additional information or documentation, **including** interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request additional information or documentation **from the entities or other authorities or which conduct** interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities. ***Failure by the entities to provide the requested information within this deadline shall result in the procedure being closed without any further assessment by the competent authority. The closure of the procedure shall be without prejudice to the possibility for the entity to submit a new application.***

Or. en

Justification

The Commission proposed articles allow for the extension of the assessment period but not where documentation or information is requested from parties, i.e. judicial authorities and/or other supervisory authorities. The latter is a very common occurrence which often consumes

more time. The amendment therefore rewords these provisions to also cover such situations. It also introduces an additional legal basis allowing competent authorities to consider an application incomplete in case of the failure of entities to provide requested documentation within the deadline.

Amendment 446

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request ***from the entities*** additional information or documentation, ***including*** interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request additional information or documentation ***from the entities or other authorities or which conduct*** interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities. ***Failure by the entities to provide the requested information within this deadline shall result in the procedure being closed without any further assessment by the competent authority. The closure of the procedure shall be without prejudice to the possibility for the entity to submit a new application.***

Or. en

Amendment 447
Luis Garicano, Luděk Niedermayer

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request **from the entities** additional information or documentation, **including** interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request additional information or documentation **from the entities or other authorities or which conduct** interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities. **Failure by the entities to provide the requested information within this deadline shall result in the procedure being closed without any further assessment by the competent authority. The closure of the procedure shall be without prejudice to the possibility by the entity to submit a new application.**

Or. en

Justification

Suggested by the ECB

Amendment 448
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not exceed **80** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Failure by entities to provide requested information within this deadline result in the procedure being closed without any further assessment by the competent authority. The closure of the procedure shall be without prejudice to the possibility for the entity to submit a new application.

Or. en

Amendment 449
Dimitrios Papadimoulis
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request

Amendment

4. Competent authorities that request

from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation *strictly* within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Failure by the entities to provide the requested information within that deadline shall result in the procedure being closed.

Or. en

Amendment 450
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation

within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Amendment 451

Linea Sogaard-Lidell, Engin Eroglu, Nicola Beer, Andrus Ansip

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of 40 working days. However, the assessment period shall not exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Justification

The ex-ante approach for assessing the suitability of members of management bodies will result in unacceptable postponement of appointment of management to the detriment of bank's daily activities.

Amendment 452

Raffaele Fitto

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Amendment 453
Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge

receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Amendment 454
Gianna Gancia

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Amendment 455
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 20

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Justification

This amendment aims to reduce the total assessment period to 60 days, as an assessment period of 120 days can lead to rigidity in leadership processes which can affect the performance of companies negatively.

Amendment 456

Carlo Calenda

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not

exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Amendment 457

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request from the entities additional information or documentation, including interviews or hearings, may extend the assessment period for a maximum of **20** working days. However, the assessment period shall not exceed **60** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Amendment 458
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 5

Text proposed by the Commission

Amendment

5. As soon as any new facts or other issues that may affect the suitability of the member of the management body are known to the entities or the relevant member of the management body, the entities shall inform without undue delay the relevant competent authorities thereof. *deleted*

Or. en

Justification

[copied to Art. 91a CRD]The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 459
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 6

Text proposed by the Commission

Amendment

6. Competent authorities shall not reassess the suitability of members of the management body when their mandate is renewed, unless relevant information that is known to competent authorities has changed and such change may affect the suitability of the member concerned. *deleted*

Amendment 460
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 6

Text proposed by the Commission

Amendment

6. ***Competent authorities shall not reassess the suitability of members of the management body when their mandate is renewed, unless relevant information that is known to competent authorities has changed and such change may affect the suitability of the member concerned.*** ***deleted***

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 461
Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 6

Text proposed by the Commission

Amendment

6. Competent authorities shall not reassess the suitability of members of the management body when their mandate is renewed, ***unless relevant information that is known to competent authorities has changed and such change may affect the***

6. ***Where the competent authority becomes aware that relevant information concerning the suitability of the member of the management body has changed and such change may affect the suitability of the member concerned, the competent***

suitability of the member concerned.

authority shall reassess the suitability of the member of the management.

Competent authorities shall not *automatically* reassess the suitability of members of the management body when their mandate is renewed.

Or. en

Amendment 462
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 7 – introductory part

Text proposed by the Commission

7. Where members of the management body do not fulfil the requirements set out in Article 91(1) to (8) at all times *or where the entities do not comply with the obligations and deadlines laid down in paragraphs 2 or 4 of this Article*, Member States shall ensure that competent authorities have the necessary powers to:

Amendment

7. Where members of the management body do not fulfil the requirements set out in Article 91(1) to (8) at all times, Member States shall ensure that competent authorities have the necessary powers to:

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 463
Joachim Schuster, René Repasi

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 7 – point a

Text proposed by the Commission

Amendment

(a) prevent **such** members **to be part** of the management body;

(a) prevent members of the management body **from carrying out activities**;

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 464

Joachim Schuster, René Repasi

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 7 – point b

Text proposed by the Commission

Amendment

(b) remove such members from the management body;

(b) remove such members from the management body, **in urgent cases without a suspensive effect of formal objections or legal proceedings by the entity or the person itself**;

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 465

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 7 – point b

Text proposed by the Commission

(b) remove such members from the management body;

Amendment

(b) **suspend or** remove such members from the management body;

Or. en

Amendment 466
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8

Text proposed by the Commission

8. In accordance with paragraphs 1 to 7, competent authorities shall carry out the suitability assessment before members of the management body take up their positions in the following entities:

(a) the EU parent institution that qualifies as large institution;

(b) the parent institution in a Member State that qualifies as large institution;

(c) central body that qualifies as large institution or that supervises large institutions affiliated to it;

(d) stand-alone institution in the EU that qualifies as large institution;

(e) relevant subsidiary;

(f) the parent financial holding companies in a Member State, parent mixed financial holding companies in a Member State, EU parent financial holding companies and EU parent mixed financial holding companies, having large institutions or relevant subsidiaries within

deleted

Amendment

their group.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 467
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8

Text proposed by the Commission

Amendment

8. In accordance with paragraphs 1 to 7, competent authorities shall carry out the suitability assessment before members of the management body take up their positions in the following entities:

deleted

- (a) the EU parent institution that qualifies as large institution;**
- (b) the parent institution in a Member State that qualifies as large institution;**
- (c) central body that qualifies as large institution or that supervises large institutions affiliated to it;**
- (d) stand-alone institution in the EU that qualifies as large institution;**
- (e) relevant subsidiary;**
- (f) the parent financial holding companies in a Member State, parent mixed financial holding companies in a Member State, EU parent financial holding companies and EU parent mixed financial holding companies, having large institutions or relevant subsidiaries within**

their group.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 468

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 8

Text proposed by the Commission

Amendment

- 8.** *In accordance with paragraphs 1 to 7, competent authorities shall carry out the suitability assessment before members of the management body take up their positions in the following entities:*
- (a) the EU parent institution that qualifies as large institution;*
 - (b) the parent institution in a Member State that qualifies as large institution;*
 - (c) central body that qualifies as large institution or that supervises large institutions affiliated to it;*
 - (d) stand-alone institution in the EU that qualifies as large institution;*
 - (e) relevant subsidiary;*
- deleted*

(f) the parent financial holding companies in a Member State, parent mixed financial holding companies in a Member State, EU parent financial holding companies and EU parent mixed financial holding companies, having large institutions or relevant subsidiaries within their group.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 469

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 8

Text proposed by the Commission

Amendment

8. In accordance with paragraphs 1 to 7, competent authorities shall carry out the suitability assessment before members of the management body take up their positions in the following entities: ***deleted***

- (a) the EU parent institution that qualifies as large institution;***
- (b) the parent institution in a Member State that qualifies as large institution;***
- (c) central body that qualifies as large institution or that supervises large institutions affiliated to it;***
- (d) stand-alone institution in the EU that qualifies as large institution;***
- (e) relevant subsidiary;***

(f) the parent financial holding companies in a Member State, parent mixed financial holding companies in a Member State, EU parent financial holding companies and EU parent mixed financial holding companies, having large institutions or relevant subsidiaries within their group.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 470
Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8

Text proposed by the Commission

Amendment

8. In accordance with paragraphs 1 to 7, competent authorities shall carry out the suitability assessment before members of the management body take up their positions in the following entities: ***deleted***

- (a) the EU parent institution that qualifies as large institution;***
- (b) the parent institution in a Member State that qualifies as large institution;***
- (c) central body that qualifies as large institution or that supervises large institutions affiliated to it;***
- (d) stand-alone institution in the EU that qualifies as large institution;***
- (e) relevant subsidiary;***

(f) the parent financial holding companies in a Member State, parent mixed financial holding companies in a Member State, EU parent financial holding companies and EU parent mixed financial holding companies, having large institutions or relevant subsidiaries within their group.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 471
Raffaele Fitto

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8

Text proposed by the Commission

Amendment

8. In accordance with paragraphs 1 to 7, competent authorities shall carry out the suitability assessment before members of the management body take up their positions in the following entities: ***deleted***

- (a) the EU parent institution that qualifies as large institution;***
- (b) the parent institution in a Member State that qualifies as large institution;***
- (c) central body that qualifies as large institution or that supervises large institutions affiliated to it;***
- (d) stand-alone institution in the EU that qualifies as large institution;***
- (e) relevant subsidiary;***

(f) the parent financial holding companies in a Member State, parent mixed financial holding companies in a Member State, EU parent financial holding companies and EU parent mixed financial holding companies, having large institutions or relevant subsidiaries within their group.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

Amendment 472
Gianna Gancia

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8

Text proposed by the Commission

Amendment

8. In accordance with paragraphs 1 to 7, competent authorities shall carry out the suitability assessment before members of the management body take up their positions in the following entities: ***deleted***

- (a) the EU parent institution that qualifies as large institution;***
- (b) the parent institution in a Member State that qualifies as large institution;***
- (c) central body that qualifies as large institution or that supervises large institutions affiliated to it;***
- (d) stand-alone institution in the EU that qualifies as large institution;***
- (e) relevant subsidiary;***

(f) the parent financial holding companies in a Member State, parent mixed financial holding companies in a Member State, EU parent financial holding companies and EU parent mixed financial holding companies, having large institutions or relevant subsidiaries within their group.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall be able to duly justify such immediate replacement.

Or. en

**Amendment 473
Gilles Boyer**

**Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8 – subparagraph 1 – point b**

Text proposed by the Commission

Amendment

(b) the parent institution in a Member State that qualifies as large institution;

(b) the parent institution in a Member State that qualifies as large institution; ***except if it is affiliated to a central body. In that case, only the suitability of members of the management body of the central body should be assessed;***

Or. en

Justification

This provision unintendedly requires supervisors to carry out a suitability assessment of the members of the management body of large parent institutions in a Member State, including where these institutions are affiliated to a central body which is already subject to a suitability assessment by supervisors. This amendment aims at correcting this unintended effect which would result in an undue additional workload for supervisors.

Amendment 474
Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) relevant subsidiary;

(e) relevant subsidiary ***when they are parent institutions in a Member State;***

Or. en

Justification

For the sake of proportionality, the requirement for supervisors to assess members of the management body in relevant subsidiaries should be limited only to relevant subsidiaries, which are parent institutions in a Member State.

Amendment 475
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) relevant subsidiary;

(e) relevant subsidiary ***that qualifies as a large institution;***

Or. en

Justification

This amendment aims to introduce the proportionality principle in the suitability assessment process. Ex-ante assessments by the competent authority should strictly only be obligatory for large institutions.

Amendment 476
Andreas Schwab

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the entities or their management bodies are not involved in the selection of members of the management body in its supervisory function under national law, the competent authority shall carry out the suitability assessment at the latest without undue delay after these members take up their positions.

Or. en

Amendment 477
Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 8 – subparagraph 2

Text proposed by the Commission

Amendment

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall ***be able to*** duly justify such immediate replacement.

However, where it is strictly necessary to replace a member of the management body immediately, competent authorities may carry out the suitability assessment of members of the management body after they take up their positions. The entities shall duly justify ***the need for*** such immediate replacement.

Or. en

Amendment 478
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20

Text proposed by the Commission

Amendment

9. For the purposes of paragraph 2, EBA shall develop draft regulatory technical standards specifying information or accompanying documents required to be submitted to the competent authorities for performing the suitability assessment. **deleted**

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 12 months from the date of entry into force of this amending Directive].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 479
Joachim Schuster

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 b – paragraph 10

Text proposed by the Commission

Amendment

10. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information **deleted**

referred to in paragraph 2.

EBA shall submit those draft implementing technical standards to the Commission by [OP please insert the date = 12 months from the date of entry into force of this amending Directive].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Or. en

Justification

The "fit & proper" framework should respect national rules. The new Commission proposal makes it practically impossible to maintain an ex-post regulation and thus contradicts the well-established subsidiarity principle. Moreover, the concrete supervisory process on fit & proper assessments should respect and be in line with i.e. national corporate law.

Amendment 480

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 10 – subparagraph 1

Text proposed by the Commission

10. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2.

Amendment

10. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2. ***When developing the draft implementing technical standards, EBA shall take into account existing practices and tools.***

Or. en

Amendment 481

Luis Garicano, Luděk Niedermayer

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 b – paragraph 10 – subparagraph 1

Text proposed by the Commission

10. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2.

Amendment

10. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2. ***When developing the draft implementing technical standards, EBA shall take into account existing practices and tools.***

Or. en

Justification

Suggested by the ECB

Amendment 482

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 c – paragraph 2

Text proposed by the Commission

2. Where the entities conclude, based on the assessment referred to in paragraph 1, that the person does not fulfil the requirements set out in that paragraph, ***they shall not appoint that person as a key function holder.*** The entities shall ***take all*** measures necessary to ensure ***the appropriate functioning of*** that position.

Amendment

2. ***Small, non-complex institutions within the meaning of Art. 4 (1) No. 145 CRR II, may assess the suitability of key function holders after those persons take up their positions. All other entities shall assess the suitability of key function holders before those persons take up their positions.***

Where the entities conclude, based on the assessment referred to in paragraph 1, that the person does not fulfil the requirements set out in that paragraph, the entities shall:

(a) ensure that the person concerned

does not take up the position considered, in the case that the assessment referred to in paragraph 1 is completed before those persons take up their positions;

(b) remove such persons from their positions or to take the measures necessary to ensure that such persons are suitable for the position concerned, in the case that those persons take up their positions before the completion of the assessment.

Or. en

Justification

This amendment aims to introduce the proportionality principle in the assessment process. Proportionality needs to be insured for SNCIs, as ex-post assessments pose less of a risk when compared to other entities.

Amendment 483

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 c – paragraph 2

Text proposed by the Commission

2. Where the entities conclude, based on the assessment referred to in paragraph 1, that the person does not fulfil the requirements set out in that paragraph, they shall not appoint that person as a key function holder. The entities shall take all measures necessary to ensure the appropriate functioning of that position.

Amendment

2. Where the entities conclude, based on the assessment referred to in paragraph 1, that the person does not fulfil the requirements set out in that paragraph, they shall not appoint that person as a key function holder. The entities shall take all measures necessary to ensure the appropriate functioning of that position, ***including removing the key function holder if that person ceases to comply with the suitability criteria.***

Or. en

Amendment 484
Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 1 – point b

Text proposed by the Commission

(b) the parent institution in a Member State that qualifies as large institution;

Amendment

(b) the parent institution in a Member State that qualifies as large institution, ***except if it is affiliated to a central body. In that case, only the suitability of the heads of internal control functions and the chief financial officer of the central body should be assessed;***

Or. en

Justification

This provision unintendedly requires supervisors to carry out a suitability assessment of the heads of internal control functions and the chief financial officer of large parent institutions in a Member State, including where these institutions are affiliated to a central body which is already subject to a suitability assessment by supervisors. This amendment aims at correcting this unintended effect which would result in an undue additional workload for supervisors.

Amendment 485
Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 1 – point e

Text proposed by the Commission

(e) relevant subsidiary.

Amendment

(e) relevant subsidiary ***when they are parent institutions in a Member State.***

Or. en

Justification

For the sake of proportionality, the requirement for supervisors to assess the heads and officer in relevant subsidiaries should be limited only to relevant subsidiaries which are

parent institutions in a Member State.

Amendment 486
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) relevant subsidiary.

(e) relevant subsidiary *that qualifies as a large institution.*

Or. en

Justification

This amendment aims to introduce the proportionality principle in the suitability assessment process. Ex-ante assessments by the competent authority should strictly only be obligatory for large institutions.

Amendment 487
Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2 *within two working days.*

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2 *as soon as possible.*

Or. en

Amendment 488
Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2 ***within two working days***.

Amendment

3. Competent authorities shall acknowledge in writing the receipt of the application and the documentation required in accordance with paragraph 2.

Or. en

Amendment 489

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Competent authorities may consult, in the context of their verifications, and on a risk-sensitive basis, the authorities competent for the supervision of anti-money laundering in line with Directive (EU) 2015/849 and provide them with all the relevant information concerning the members of the management body. Competent authorities may also consult the Central AML/CFT database referred to in Article 11 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Or. en

Amendment 490

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall assess the suitability of the heads of internal control functions and chief financial officer within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph.

Amendment

Competent authorities shall assess the suitability of the heads of internal control functions and chief financial officer within **60** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph.

Or. en

Amendment 491

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities shall assess the suitability of the heads of internal control functions and chief financial officer within **80** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph.

Amendment

Competent authorities shall assess the suitability of the heads of internal control functions and chief financial officer within **30** working days ('assessment period') as from the date of the written acknowledgement referred to in the first subparagraph.

Or. en

Justification

This amendment aims to reduce the initial assessment period to 30 days, as an assessment period of 80 days can lead to rigidity in leadership processes which can affect the performance of companies negatively. The proposed reduction to 30 days, as opposed to 40 days for management bodies, can be explained by the significantly lower degree of complexity

and administrative efforts of the suitability assessment of KFHs when compared to management bodies.

Amendment 492

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 4

Text proposed by the Commission

4. Competent authorities that request ***from the entities referred to paragraph 1*** additional information or documentation, ***including*** interviews or hearings, may extend the assessment period for maximum 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request additional information or documentation ***from the entities referred to in paragraph 1 or from other authorities or which conduct*** interviews or hearings, may extend the assessment period for maximum 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities. ***Failure by the entities to provide the requested information within this deadline shall result in the procedure being closed without any further assessment by the competent authority. The closure of the procedure shall be without prejudice to the possibility for the entity to submit a new application.***

Or. en

Amendment 493

Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 4

Text proposed by the Commission

4. Competent authorities that request ***from the entities referred to paragraph 1*** additional information or documentation, including interviews or hearings, may extend the assessment period for maximum 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request additional information or documentation ***from the entities or other authorities or which conduct*** including interviews or hearings, may extend the assessment period for maximum 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities. ***Failure by the entities to provide the requested information within this deadline shall result in the procedure being closed without any further assessment by the competent authority. The closure of the procedure shall be without prejudice to the possibility for the entity to submit a new application.***

Or. en

Justification

See justification for amendment to Article 91b – paragraph 4.

Amendment 494
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 20

Text proposed by the Commission

4. Competent authorities that request from the entities referred to paragraph 1 additional information or documentation, including interviews or hearings, may extend the assessment period for maximum **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

Amendment

4. Competent authorities that request from the entities referred to paragraph 1 additional information or documentation, including interviews or hearings, may extend the assessment period for maximum **20** working days. However, the assessment period shall not exceed **80** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities. ***Failure by entities to provide requested information within this deadline results in the procedure being closed without any further assessment by the competent authority. The closure of the procedure shall be without prejudice to the possibility for the entity to submit a new application.***

Or. en

Amendment 495
Dimitrios Papadimoulis
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities referred to paragraph 1 additional information or documentation,

Amendment

4. Competent authorities that request from the entities referred to paragraph 1 additional information or documentation,

including interviews or hearings, may extend the assessment period for maximum 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10 working days as of the date of the written acknowledgement of the request from competent authorities.

including interviews or hearings, may extend the assessment period for maximum 40 working days. However, the assessment period shall not exceed 120 working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation *strictly* within 10 working days as of the date of the written acknowledgement of the request from competent authorities. ***Failure by the entities to provide the requested information within that deadline shall result in the procedure being closed.***

Or. en

Amendment 496
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 4

Text proposed by the Commission

4. Competent authorities that request from the entities referred to paragraph 1 additional information or documentation, including interviews or hearings, may extend the assessment period for maximum **40** working days. However, the assessment period shall not exceed **120** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10

Amendment

4. Competent authorities that request from the entities referred to paragraph 1 additional information or documentation, including interviews or hearings, may extend the assessment period for maximum **10** working days. However, the assessment period shall not exceed **40** working days. Request for additional information or documentation shall be made in writing and shall be specific. The entities referred to paragraph 1 shall acknowledge receipt of request for additional information or documentation within two working days and provide the requested additional information or documentation within 10

working days as of the date of the written acknowledgement of the request from competent authorities.

working days as of the date of the written acknowledgement of the request from competent authorities.

Or. en

Justification

This amendment aims to reduce the total assessment period to 40 days, as an assessment period of 120 days can lead to rigidity in leadership processes which can affect the performance of companies negatively. The proposed reduction to 30 days, as opposed to 60 days for management bodies, can be explained by the significantly lower degree of complexity and administrative efforts of the suitability assessment of KFHs when compared to management bodies.

Amendment 497

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 5

Text proposed by the Commission

5. As soon as any new facts or other issues that may affect the suitability of the **member of the management body** are known to the entities referred to in paragraph 1 or the relevant member of the management body, the entities referred to in that paragraph shall inform without undue delay the relevant competent authorities thereof.

Amendment

5. As soon as any new facts or other issues that may affect the suitability of the **heads of internal control functions and the chief financial officer** are known to the entities referred to in paragraph 1 or the relevant member of the management body, the entities referred to in that paragraph shall inform without undue delay the relevant competent authorities thereof. ***Where the competent authority becomes aware that relevant information concerning the suitability of the heads of internal control functions and the chief financial officer has changed and such change may affect the suitability of the heads or officer concerned, the competent authority shall reassess their suitability.***

Or. en

Amendment 498

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 6 – point b

Text proposed by the Commission

(b) remove such heads or officer;

Amendment

(b) **suspend or** remove such heads or officer;

Or. en

Amendment 499

Luis Garicano, Luděk Niedermayer

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 8 – subparagraph 1

Text proposed by the Commission

8. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2.

Amendment

8. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2. **When developing the draft implementing technical standards, EBA shall take into account existing practices and tools.**

Or. en

Justification

Suggested by the ECB

Amendment 500

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU
Article 9 d – paragraph 8 – subparagraph 1

Text proposed by the Commission

8. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2.

Amendment

8. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2. ***When developing the draft implementing technical standards, EBA shall take into account existing practices and tools.***

Or. en

Amendment 501
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2013/36/EU
Article 91 d – paragraph 8 – subparagraph 1

Text proposed by the Commission

8. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2.

Amendment

8. EBA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of the information referred to in paragraph 2. ***When developing the draft implementing technical standards, EBA shall take into account existing practices and tools.***

(Same sentence to be added to Article 91d – paragraph 8.)

Or. en

Justification

The IT solutions for the purposes of processing fit and proper applications should be consistent with recent harmonisation effort and should leverage existing infrastructures when possible. In light of this, this amendment adds a sentence to new Article 91b(10) and 91d(8) requiring the EBA to consider existing tools and practices when developing the implementing technical standards.

Amendment 502

Jonás Fernández, Paul Tang, Eero Heinäluoma

Proposal for a directive

Article 1 – paragraph 1 – point 20

Directive 2013/36/EU

Article 91 d – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. EBA shall issue guidelines on the fulfilment of the requirements of Article 91 (c). The EBA shall issue those guidelines by [OP please insert the date = 12 months from date of entry into force of this amending Directive].

Or. en

Amendment 503

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 21 – point b a (new)

Directive 2013/13/EU

Article 92 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph is added:
"3a. Small and non-complex institutions as defined in point (145) of Article 4(1) of Regulation (EU) No 575/2013 do not have to apply Articles 92(2) and (3), 94 and 95, as far as the variable remuneration of none of the staff members exceeds EUR 50 000 and does not represent more than one third of the staff member's total annual remuneration.

For the purpose of this paragraph, the variable remuneration referred to in the first subparagraph shall not include severance payments."

Amendment 504
Aurore Lalucq, Paul Tang

Proposal for a directive
Article 1 – paragraph 1 – point 22 – point -a (new)
Directive 2013/13/EU
Article 94 – paragraph 1 – point a

Present text

Amendment

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

(-a) in paragraph 1, point (a), is replaced by the following:

‘(a) where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the performance of the individual and of the business unit concerned and of the overall results of the institution and when assessing individual performance, financial and non-financial **ESG-related** criteria are taken into account. **Half of variable elements of remuneration are linked to achievement of the targets of the institution referred to in Article 76(2) subparagraph 2;**’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 505
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 22 – point -a (new)
Directive 2013/36/EU
Article 94 – paragraph 1 – point a

Present text

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

Amendment

(-a) in paragraph 1, point (a) is replaced by the following:

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

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 506

Irene Tinagli

Proposal for a directive

Article 1 – paragraph 1 – point 22 a (new)

Directive 2013/36/EU

Article 97 – paragraph 4 – subparagraph 2

Present text

When conducting the review and evaluation referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality in accordance with the criteria disclosed pursuant to point (c) of Article 143(1).

Amendment

(22a) in Article 97(4), subparagraph 2 is replaced by the following:

‘When conducting the review and evaluation referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality in accordance with the criteria disclosed pursuant to point (c) of Article 143(1). ***In particular, competent authorities shall take into account the following elements:***

(a) whether the entity is not a G-SII;

(b) whether the entity and its subsidiaries are linked according to Article 22, paragraph 7, of Directive 2013/34/EU and applicable national laws;

(c) whether the subsidiaries are small and non-complex entities according to point 145 of this article or less significant institutions according to Article 6, paragraph 4, of Regulation (EU) 1024/2013.'

Or. en

Amendment 507

Elisabetta Gualmini, Brando Benifei, Patrizia Toia, Alessandra Moretti, Simona Bonafè

Proposal for a directive

Article 1 – paragraph 1 – point 22 a (new)

Directive 2013/36/EU

Article 97 – paragraph 4 – subparagraph 2

Present text

When conducting the review and evaluation referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality in accordance with the criteria disclosed pursuant to point (c) of Article 143(1).

Amendment

(22a) in Article 97(4), subparagraph 2 is replaced by the following:

‘When conducting the review referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality **having regard to definitions set out in article 4, paragraph 1, from points 145 to point 146 (a) of Regulation (EU) 575/2013 and**, in accordance with the criteria disclosed pursuant to point (c) of Article 143 (1). **For entities referred to in article 4, paragraph 1, point 146 (a) of Regulation (EU) 575/2013 competent authorities shall take into account the fact that subsidiaries or affiliated undertakings are all small and non-complex or less significant institutions;**’

Or. en

Amendment 508

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive
Article 1 – paragraph 1 – point 22 a (new)
Directive 2013/36/EU
Article 97 – paragraph 4 – subparagraph 2

Present text

When conducting the review *and evaluation* referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality in accordance with the criteria disclosed pursuant to point (c) of Article 143(1).

Amendment

(22a) in Article 97, (4), subparagraph 2 is replaced by the following:

When conducting the review referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality *having regard to definitions set out in article 4, paragraph 1, from points 145 to point 146-bis of Regulation (EU) 575/2013 and*, in accordance with the criteria disclosed pursuant to point (c) of Article 143(1). ***For entities referred to in article 4, paragraph 1, point 146-bis of Regulation (EU) 575/2013 competent authorities shall take into account the fact that subsidiaries or affiliated undertakings are all small and non-complex or less significant institutions'***

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 509
Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive
Article 1 – paragraph 1 – point 22 a (new)
Directive 2013/36/EU
Article 97 – paragraph 4 – subparagraph 2

Present text

When conducting the review *and evaluation* referred to in paragraph 1 of this Article, competent authorities shall

Amendment

(22a) in Article 97(4), subparagraph 2 is replaced by the following:

‘When conducting the review referred to in paragraph 1 of this Article, competent authorities shall apply the principle of

apply the principle of proportionality in accordance with the criteria disclosed pursuant to point (c) of Article 143(1).

proportionality *having regard to definitions set out in article 4, paragraph 1, from points 145 to point 146-bis of Regulation (EU) 575/2013 and*, in accordance with the criteria disclosed pursuant to point (c) of Article 143(1). *For entities referred to in Article 4, paragraph 1, point 146a of Regulation (EU) 575/2013 competent authorities shall take into account the fact that subsidiaries and affiliated undertakings are all small and non-complex or less significant institutions.'*

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 510

Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 22 a (new)

Directive 2013/36/EU

Article 97 – paragraph 4 – subparagraph 2

Present text

When conducting the review and evaluation referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality in accordance with the criteria disclosed pursuant to point (c) of Article 143(1).

Amendment

(22a) in Article 97(4), subparagraph 2 is replaced by the following:

*‘When conducting the review and evaluation referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality **having regard to definitions set out in Article 4, paragraph 1, from points (145) to point (146a) of Regulation (EU) 575/2013 and** in accordance with the criteria disclosed pursuant to point (c) of Article 143(1). **For entities referred to in Article 4, paragraph 1, point (146a) of Regulation (EU) 575/2013, competent authorities shall take into account the fact that subsidiaries or affiliated undertakings are all small and non-complex or less significant***

institutions.’

Or. en

Amendment 511

Gianna Gancia

Proposal for a directive

Article 1 – paragraph 1 – point 22 b (new)

Directive 2013/36/EU

Article 97 – paragraph 4 – subparagraph 2

Present text

When conducting the review *and evaluation* referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality in accordance with the criteria disclosed pursuant to point (c) of Article 143(1).

Amendment

(22b) in Article 97(4), subparagraph 2 is replaced by the following:

‘When conducting the review referred to in paragraph 1 of this Article, competent authorities shall apply the principle of proportionality *having regard to definitions set out in Article 4(1), points 145 to 146a of Regulation (EU) No 575/2013 and*, in accordance with the criteria disclosed pursuant to point (c) of Article 143(1) *of this Directive. For entities referred to in Article 4(1), point 146a of Regulation (EU) No 575/2013, competent authorities shall take into account the fact that subsidiaries and affiliated undertakings are all small and non-complex or less significant institutions.’*

Or. en

Amendment 512

Gianna Gancia

Proposal for a directive

Article 1 – paragraph 1 – point 22 c (new)

Directive 2013/36/EU

Article 98 – paragraph 1 – point i

Present text

Amendment

(i) the business model of the institution.

(22c) in Article 98, paragraph (1), point (i) is replaced by the following:

‘(i) the business model of the institution, *including those essential features defined in national law as for entities referred to in Article 4(1), point 146a of Regulation (EU) No 575/2013.*’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 513

Elisabetta Gualmini, Brando Benifei, Patrizia Toia, Alessandra Moretti, Simona Bonafè

Proposal for a directive

Article 1 – paragraph 1 – point 22 b (new) Directive 2013/36/EU

Article 98 – paragraph 1 – point (i)

Present text

Amendment

(i) the business model of the institution.

(22b) in Article 98(1), point (i) is replaced by the following:

‘(i) the business model of the institution, *including those essential features defined in national law as for entities referred to in Article 4, point 146 (a) of Regulation (EU) No 575/2013;*’

Or. en

Justification

From a prudential and supervision perspective, recognizing some banks as "social economy entities", according to Art. 4 point 146 (a) of Regulation (EU) 575/2013, and their business model as social economy oriented will help maintaining an adequate level of risk-based requirements and prudential supervision. Moreover, it will guarantee a more appropriate dimension by which supervisory measures, environmental, social and governance risks are assessed.

Amendment 514
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 22 b (new)
Directive 2013/36/EU
Article 98 – paragraph 1 – point i

Present text

(i) the business model of the institution.

Amendment

(22b) in Article 98(), point (i) is replaced by the following:

‘(i) the business model of the institution, including those essential features defined in national law as for entities referred to in Article 4, paragraph 1, point 146a, of Regulation (EU) No 575/2013.’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 515
Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive
Article 1 – paragraph 1 – point 22 -a (new)
Directive (EU) 36/2013
Article 98 – paragraph 1 – point i

Present text

(i) the business model of the institution.

Amendment

(22a) in Article 98(1), point (i) is replaced by the following:

(i) the business model of the institution, including those essential features defined in national law as for entities referred to in art. 4, point 146-bis of Regulation (EU) No 575/2013.

Or. en

Amendment 516

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive

Article 1 – paragraph 1 – point 22 -a (new)

Directive 2013/36/EU

Article 98 – paragraph 1 – point i

Present text

(i) the business model of the institution

Amendment

(22a) in Article 98(1), point i is replaced by the following:

(i) the business model of the institution, ***including those essential features defined in national law as for entities referred to in Article 4, point 146a of Regulation (EU) No 575/2013***

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 517

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 22 a (new)

Directive 2013/36/EU

Article 98 – paragraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(22a) in Article 98 (1), the following point is added:

‘(ia) the extent to which the institutions have put in place appropriate policies and operational actions, as well as progress made in achieving the targets and milestones defined in the transition plans referred to in Article 76‘

Or. en

Amendment 518

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 22 a (new)

Directive 2013/36/EU

Article 98 – paragraph 1 – point i b (new)

Text proposed by the Commission

Amendment

(22a) in Article 98(1), the following point is added:

(ib) the exposure to the non-bank financial intermediaries sector, as defined in Article 4(1) point 154 of the [insert reference to CRR] and the effectiveness of the measures adopted by the institution to mitigate the risks emerging from such counterparties.'

Or. en

Amendment 519

Aurore Lalucq, Paul Tang, Csaba Molnár

Proposal for a directive

Article 1 – paragraph 1 – point 23

Directive 2013/36/EU

Article 98 – paragraph 9

Text proposed by the Commission

Amendment

9. The review and evaluation performed by competent authorities shall include the assessment of institutions' governance and risk management processes for dealing with environmental, social and governance risks, as well as of the institutions' exposures to environmental, social and governance risks. In determining the adequacy of institutions' processes and exposures, competent authorities shall take into account the business models of those

9. The review and evaluation performed by competent authorities shall include:

institutions.;

(i) the assessment of institutions' governance and risk management processes for dealing with environmental, social and governance risks, as well as of the institutions' exposures to environmental, social and governance risks;

(ii) *the assessment of the institutions' plans and targets, as well as the progress made towards achieving those targets, as referred to in Article 76(2), to achieve climate neutrality by 2050 at the latest, set out in Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 ("European Climate Law"), as well as other relevant Union policy objectives in relation to environmental, social and governance factors.*

In determining the adequacy of institutions' processes and exposures, competent authorities shall take into account the business models of those institutions.

Or. en

Amendment 520

Pascal Canfin

Proposal for a directive

Article 1 – paragraph 1 – point 23

Directive 2013/36/EU

Article 98 – paragraph 9 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Environmental risks shall be assessed on the basis of banking institutions' transition plans as defined in Article 76. Institutions' governance and risk management processes with regard to environmental aspects shall be brought into line with the objectives of those

transition plans.

Or. fr

Amendment 521

Pascal Canfin, Stéphanie Yon-Courtin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 23

Directive 2013/36/EU

Article 98 – paragraph 9 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The assessment of the institutions' plans and targets, as well as the progress made towards achieving those targets, as referred to in Article 76(2), to achieve climate neutrality by 2050 at the latest, set out in Regulation (EU) 2021/1119 as well as other relevant Union policy objectives in relation to environmental, social and governance factors.

Or. en

Amendment 522

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 24

Directive 2013/36/EU

Article 100 – paragraph 4

Text proposed by the Commission

Amendment

4. EBA, EIOPA and ESMA shall, through the Joint Committee referred to in Article 54 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, develop guidelines to ensure that consistency, long-term considerations and common standards for assessment methodologies are integrated into the stress testing of environmental,

deleted

social and governance risks. Stress testing of environmental, social and governance risks by competent authorities should start with climate-related factors. EBA, EIOPA and ESMA shall, through the Joint Committee referred to in Article 54 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, explore how social and governance related risks can be integrated into stress testing.;

Or. en

Amendment 523
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 25 – point a – point ii
Directive 2013/36/EU
Article 104 – paragraph 1 – point m

Text proposed by the Commission

Amendment

(m) require institutions to reduce the risks arising from the institutions' misalignment with relevant policy objectives of the Union and broader transition trends relating to environmental, social and governance factors over the short, medium and long term, including through adjustments to their business models, governance strategies and risk management.; *deleted*

Or. en

Amendment 524
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 25 – point a – point ii
Directive 2013/36/EU
Article 104 – paragraph 1 – point m

Text proposed by the Commission

(m) require institutions to reduce the risks arising from the institutions' misalignment with relevant policy objectives of the Union **and broader transition trends** relating to environmental, social and governance factors over the short, medium and long term, including through adjustments to their business models, governance strategies and risk management.;

Amendment

(m) require institutions to reduce the risks arising from the institutions' misalignment with relevant policy objectives of the Union relating to environmental, social and governance factors over the short, medium and long term, including through adjustments to their business models, governance strategies and risk management.;

Or. en

Justification

The wording "broader transition trends towards a sustainable economy" is not specific enough. Therefore, the implementation of monitoring risks with respect to "broader transition trends towards a sustainable economy" will cause more confusion than it will add value to mitigating ESG risks. Union policy objectives are far-reaching, specific and adequate. This working is deleted throughout the directive.

Amendment 525

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 25 – point a – point ii a (new)

Directive 2013/36/EU

Article 104 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ii) the following point ma is added:
(ma) require the reinforcement of the climate and biodiversity targets set out in the transition plans referred to in Article 76 and of the measures and actions to make progress toward achieving the objectives set in the transition plans';

Or. en

Amendment 526

Aurore Lalucq, Paul Tang, Csaba Molnár

Proposal for a directive

Article 1 – paragraph 1 – point 25 – point a – point ii a (new)

Directive 2013/36/EU

Article 104 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) require the reinforcement of the climate targets, transition plans, and actions implemented in accordance with Article 76(2).

Or. en

Amendment 527

Pascal Canfin, Stéphanie Yon-Courtin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 25 – point a – point ii a (new)

Directive 2013/36/EU

Article 104 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) require the reinforcement of the climate targets, transition plans, and actions implemented in accordance with Article 76.

Or. en

Amendment 528

Gianna Gancia

Proposal for a directive

Article 1 – paragraph 1 – point 25 – point b

Directive 2013/36/EU

Article 104 – paragraph 3

Text proposed by the Commission

Amendment

3. *EBA shall issue guidelines, in* ~~*deleted*~~

accordance with Article 16 of Regulation (EU) No 1093/2010, to specify how competent authorities may identify that the credit valuation adjustment (CVA) risks of institutions, referred to in Article 381 of Regulation (EU) No 575/2013, pose excessive risks to the soundness of those institutions.;

Or. en

Amendment 529

Raffaele Fitto

Proposal for a directive

Article 1 – paragraph 1 – point 25 – point b

Directive 2013/36/EU

Article 104 – paragraph 3

Text proposed by the Commission

Amendment

3. EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to specify how competent authorities may identify that the credit valuation adjustment (CVA) risks of institutions, referred to in Article 381 of Regulation (EU) No 575/2013, pose excessive risks to the soundness of those institutions.;

deleted

Or. en

Amendment 530

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraphs 6 and 7

(b) the following paragraphs 6 and 7 are added: *deleted*

‘6. Where an institution becomes bound by the output floor, the following shall apply:

(a) the nominal amount of additional own funds required by the institution’s competent authority in accordance with Article 104(1), point (a), to address risks other than the risk of excessive leverage shall not increase as a result of the institutions’ becoming bound by the output floor;

(b) the institution’s competent authority shall, without undue delay, and no later than by the end date of the next review and evaluation process, review the additional own funds it required from the institution in accordance with Article 104(1), point (a), and remove any parts thereof that would double-count the risks that are already fully covered by the fact that the institution is bound by the output floor.

For the purposes of this Article and Articles 131 and 133 of this Directive, an institution shall be considered as bound by the output floor when the institution’s total risk exposure amount calculated in accordance with Article 92(3), point (a), of Regulation (EU) No 575/2013 exceeds its un-floored total risk exposure amount calculated in accordance with Article 92(4) of that Regulation.

7. For the purposes of paragraph 2, as long as an institution is bound by the output floor, the institution’s competent authority shall not impose an additional own funds requirement that would double-count the risks that are already fully covered by the fact that the institution is bound by the output floor.;

Amendment 531
Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 1 – introductory part

Text proposed by the Commission

6. Where an institution becomes bound by the output floor, the following shall apply:

Amendment

6. Where an institution becomes bound by the output floor, the following shall apply ***to avoid the double counting of risks in pillar II:***

Or. en

Justification

This amendment aims to avoid the double counting of risks in pillar II.

Amendment 532
Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/13/EU

Article 104 a – paragraph 6 – subparagraph 1 – introductory part

Text proposed by the Commission

6. Where an institution becomes bound by the output floor, the following shall apply:

Amendment

6. Where an institution becomes bound by the output floor, the following shall ***always*** apply:

Or. en

Justification

Commission text should be maintained.

Amendment 533
Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 1 – point a

Text proposed by the Commission

(a) the nominal amount of additional own funds required by the institution's competent authority in accordance with Article 104(1), point (a), ***to address risks other than the risk of excessive leverage*** shall not increase as a result of the institutions' becoming bound by the output floor;

Amendment

(a) the nominal amount of additional own funds required by the institution's competent authority in accordance with Article 104(1), point (a) shall not increase as a result of the institutions' becoming bound by the output floor;

Or. en

Justification

This amendment aims to avoid the double counting of risks in pillar II.

Amendment 534

Linea Sogaard-Lidell, Billy Kelleher, Engin Eroglu, Gilles Boyer, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 1 – point b

Text proposed by the Commission

(b) the institution's competent authority shall, without undue delay, and no later than by the end date of the next review and evaluation process, review the additional own funds it required from the institution in accordance with Article 104(1), point (a), and remove any parts thereof that would double-count the risks that are already fully covered by the fact that the institution is bound by the output floor.

Amendment

(b) the institution's competent authority shall, without undue delay, and no later than by the end date of the next review and evaluation process, review the additional own funds it required from the institution in accordance with Article 104(1), point (a), and remove any parts thereof that would

- (i) double-count the risks that are already fully covered by the fact that the institution is bound by the output floor,
- (ii) ***be considered covered due to the overcapitalisation stemming from the Output Floor, even if not explicitly related to the Output Floor objectives.***

The institution's competent authority shall also provide a quantified breakdown of the above assessment to the institution.

Or. en

Justification

Because the Output Floor has a fixed rate and is not calibrated to the bank's model risk, the requirements for the P2R and SyRB review should go beyond the possible double counting of model risk and ensure that any need for additional capital to address identified prudential or systemic risks other than stemming from model risk, is not covered already due to the overcapitalisation from the Output Floor.

Amendment 535

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 1 – point b

Text proposed by the Commission

(b) the institution's competent authority shall, without undue delay, and no later than **by** the end date of the next review and evaluation process, review the additional own funds it required from the institution in accordance with Article 104(1), point (a), and remove any parts thereof that would double-count the risks that are already fully covered by the fact that the institution is bound by the output floor.

Amendment

(b) the institution's competent authority shall, without undue delay, and no later than **6 months before** the end date of the next review and evaluation process, review the additional own funds it required from the institution in accordance with Article 104(1), point (a), and remove any parts thereof that would double-count the risks that are already fully covered by the fact that the institution is bound by the output floor.

Or. en

Justification

This amendment aims to avoid the double counting of risks in pillar II and accelerates the review of additional own funds with respect to institutions who become bound by the output floor.

Amendment 536

Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

As soon as the competent authority has completed the review in point (b), point (a) shall no longer apply. In subsequent years, competent authorities will take the above into account in the context of the regular supervisory review and evaluation process.

Or. en

Justification

The suggested amendments clarifies that the Pillar 2 requirements will remain frozen until the respective reviews will be concluded and the relevant decisions on the appropriate calibration of the requirements will be announced. Unwarranted arithmetic effects on Pillar 2 requirements arising from the introduction of the output floor should be neutralised. EBA may be given a specific mandate to develop guidelines on how competent authorities should deal with the impact of the output floor when setting Pillar 2 requirements.

Amendment 537

Luis Garicano

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 1a (new)

Text proposed by the Commission

Amendment

As soon as the competent authority has completed the review in point (b), point (a) shall no longer apply.

In subsequent years, competent authorities will take the above into account in the context of the regular supervisory review and evaluation process.

Or. en

Justification

Suggested by the ECB

Amendment 538

Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 2

Text proposed by the Commission

Amendment

For the purposes of this Article ***and Articles 131 and 133 of this Directive***, an institution shall be considered as bound by the output floor when the institution's total risk exposure amount calculated in accordance with Article 92(3), point (a), of Regulation (EU) No 575/2013 exceeds its un-floored total risk exposure amount calculated in accordance with Article 92(4) of that Regulation.

For the purposes of this Article, an institution shall be considered as bound by the output floor when the institution's total risk exposure amount calculated in accordance with Article 92(3), point (a), of Regulation (EU) No 575/2013 exceeds its un-floored total risk exposure amount calculated in accordance with Article 92(4) of that Regulation.

Or. en

Justification

Same as above.

Amendment 539
Luis Garicano

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 – subparagraph 2

Text proposed by the Commission

For the purposes of this Article *and Articles 131 and 133 of this Directive*, an institution shall be considered as bound by the output floor when the institution's total risk exposure amount calculated in accordance with Article 92(3), point (a), of Regulation (EU) No 575/2013 exceeds its un-floored total risk exposure amount calculated in accordance with Article 92(4) of that Regulation.

Amendment

For the purposes of this Article, an institution shall be considered as bound by the output floor when the institution's total risk exposure amount calculated in accordance with Article 92(3), point (a), of Regulation (EU) No 575/2013 exceeds its un-floored total risk exposure amount calculated in accordance with Article 92(4) of that Regulation.

Or. en

Justification

Suggested by the ECB

Amendment 540

Luis Garicano, Luděk Niedermayer

Proposal for a directive

Article 1 – paragraph 1 – point 26 – point b

Directive 2013/36/EU

Article 104 a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The EBA shall, by 30 June 2023, issue guidelines complementing its guidelines on the Supervisory Review and Evaluation Process, which shall further specify how to operationalise the requirements set out in paragraph 6, and in particular:

(a) how competent authorities shall reflect in their supervisory review and evaluation process the fact that an

institution has become bound by the output floor;

(b) how competent authorities and institutions shall communicate and disclose the impact on supervisory requirements of an institution becoming bound by the output floor.

Or. en

Justification

Suggested by the ECB

Amendment 541
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 1 – point 26 – point b
Directive 2013/36/EU
Article 104 a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. EBA shall, by 30 June 2023, issue guidelines complementing its guidelines on the Supervisory Review and Evaluation Process, which shall further specify how to operationalise the requirements set out in paragraph 6, and in particular:

(a) how competent authorities shall reflect in their supervisory review and evaluation process the fact that an institution has become bound by the output floor;

(b) how competent authorities and institutions shall communicate and disclose the impact on supervisory requirements of an institution becoming bound by the output floor.

Or. en

Justification

Same as above.

Amendment 542

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 26 a (new)

Directive 2013/36/EU

Article 104 b – paragraph 2 – subparagraph 2 a (new)

Present text

Amendment

(26a) in Article 104b, (2), the following subparagraph is added:

‘Competent authorities may waive the supervisory stress test referred to in Article 100 and the individual determination of additional own funds requirements for small and non-complex institutions as defined in point 145 of Article 4 (1) of Regulation 575/2013, provided that the institution's Common Equity Tier 1 ratio exceeds the own funds requirements as defined in point (a) of Article 92(1) of Regulation 575/2013, the additional own funds requirements as defined in Article 104a of this Directive and the combined capital buffer requirement by at least two percentage points.’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Justification

Provides relief for well-capitalised small and non-complex institutions.

Amendment 543

Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 26 b (new)
Directive 2013/13/EU
Article 104 b – paragraph 4 a (new)

Present text

Amendment

(26b) In Article 104b, the following paragraph is inserted:

‘4a. Where an institution becomes bound by the output floor, its competent authority shall review its guidance on additional funds communicated to the respective institution to make sure that its calibration mains appropriate.’;

Or. en

Justification

Follows the logic of Art 104a.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 544
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 28 a (new)
Directive 2013/13/EU
Article – paragraph

Text proposed by the Commission

Amendment

(28a) Provided that insurance undertakings are subject to prudential requirements, directly on an individual or consolidated basis, in accordance with Directive 2009/138/EC, or legal prudential requirements of a third country at least equivalent to those Union acts, exposures to such insurance undertakings for which a credit assessment by a nominated ECAI is available shall be treated as financial institutions and therefore assigned a risk weight according

to Table 3 in Article 120 Paragraph 1, which corresponds to the credit assessment of the ECAI in accordance with Article 136.

Or. en

Amendment 545
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 1 – point 30
Directive 2013/36/EU
Article 131

Text proposed by the Commission

Amendment

(30) Article 131 is amended as follows: deleted

(a) in paragraph 5, the following subparagraph is added:

Where an O-SII becomes bound by the output floor, its competent or designated authority, as applicable, shall review the institutions O-SII buffer requirement to make sure that its calibration remains appropriate.;

(b) in paragraph 5a, the second subparagraph is replaced by the following:

Within six weeks of receipt of the notification referred to in paragraph 7 of this Article, the ESRB shall provide the Commission with an opinion as to whether the O-SII buffer is deemed appropriate. EBA may also provide the Commission with its opinion on the buffer in accordance with Article 16a(1) of Regulation (EU) No 1093/2010.;

(c) in paragraph 15, the first subparagraph is replaced by the following:

Where the sum of the systemic risk buffer rate as calculated for the purposes of paragraph 10, 11 or 12 of Article 133 and the O-SII buffer rate or the G-SII buffer

rate to which the same institution is subject to would be higher than 5 %, the procedure set out in paragraph 5a of this Article shall apply. For the purposes of this paragraph, where the decision to set a systemic risk buffer, O-SII buffer or G-SII buffer results in a decrease or no change from any of the previously set rates, the procedure set out in paragraph 5a of this Article shall not apply.;

Or. en

Justification

There should not be any double counting of risks between the systemic risk buffer requirements and the output floor, regardless of whether an institution is bound by the output floor or not.

Amendment 546
Luis Garicano

Proposal for a directive
Article 1 – paragraph 1 – point 30 – point a
Directive 2013/36/EU
Article 131 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

(a) in paragraph 5, the following subparagraph is added: **deleted**

Where an O-SII becomes bound by the output floor, its competent or designated authority, as applicable, shall review the institutions O-SII buffer requirement to make sure that its calibration remains appropriate.;

Or. en

Justification

Suggested by the ECB

Amendment 547

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 30 – point a

Directive 2013/36/EU

Article 131 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

(a) in paragraph 5, the following subparagraph is added:

deleted

Where an O-SII becomes bound by the output floor, its competent or designated authority, as applicable, shall review the institutions O-SII buffer requirement to make sure that its calibration remains appropriate.;

Or. en

Amendment 548

Linea Søgaard-Lidell, Billy Kelleher, Engin Eroglu, Gilles Boyer, Nicola Beer

Proposal for a directive

Article 1 – paragraph 1 – point 30 – point a

Directive 2013/36/EU

Article 131 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

Where an O-SII becomes bound by the output floor, its competent or designated authority, as applicable, shall review the institutions O-SII buffer requirement to make sure that its calibration remains appropriate.;

Where an O-SII becomes bound by the output floor, ***the following shall apply:***

(a) the nominal amount of the institution's O-SII buffer shall not increase as a result of the institution becoming bound by the output floor;

(b) its competent or designated authority, as applicable, shall review the institutions O-SII buffer requirement to make sure that its calibration remains

appropriate.;

Or. en

Amendment 549
Luis Garicano

Proposal for a directive
Article 1 – paragraph 1 – point 30 – point b
Directive 2013/36/EU
Article 131 – paragraph 5 a – subparagraph 2

Text proposed by the Commission

Amendment

(b) in paragraph 5a, the second subparagraph is replaced by the following: *deleted*

Within six weeks of receipt of the notification referred to in paragraph 7 of this Article, the ESRB shall provide the Commission with an opinion as to whether the O-SII buffer is deemed appropriate. EBA may also provide the Commission with its opinion on the buffer in accordance with Article 16a(1) of Regulation (EU) No 1093/2010.;

Or. en

Justification

Suggested by the ECB

Amendment 550
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 30 – point c
Directive 2013/36/EU
Article 131 – paragraph 15 – subparagraph 1

Text proposed by the Commission

Amendment

(c) in paragraph 15, the first subparagraph is replaced by the *deleted*

following:

Where the sum of the systemic risk buffer rate as calculated for the purposes of paragraph 10, 11 or 12 of Article 133 and the O-SII buffer rate or the G-SII buffer rate to which the same institution is subject to would be higher than 5 %, the procedure set out in paragraph 5a of this Article shall apply. For the purposes of this paragraph, where the decision to set a systemic risk buffer, O-SII buffer or G-SII buffer results in a decrease or no change from any of the previously set rates, the procedure set out in paragraph 5a of this Article shall not apply.;

Or. en

Amendment 551

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point a

Directive 2013/36/EU

Article 133 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that it is possible to set a systemic risk buffer of Common Equity Tier 1 capital for the financial sector or one or more subsets of that sector on all or a subset of exposures as referred to in paragraph 5 of this Article, in order to prevent and mitigate macroprudential or systemic risks not covered by Regulation (EU) No 575/2013 and by Articles 130 and 131 of this Directive, in the meaning of a risk of disruption in the financial system with the potential to have serious negative consequences to the financial system and the real economy in a specific Member State.;

Amendment

1. Each Member State shall ensure that it is possible to set a systemic risk buffer of Common Equity Tier 1 capital for the financial sector or one or more subsets of that sector on all or a subset of exposures as referred to in paragraph 5 of this Article, in order to prevent and mitigate macroprudential or systemic risks not covered by Regulation (EU) No 575/2013 and by Articles 130 and 131 of this Directive, ***including the risks emanating from climate change and biodiversity loss*** in the meaning of a risk of disruption in the financial system with the potential to have serious negative consequences to the financial system and the real economy in a specific Member

Amendment 552

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point b

Directive 2013/36/EU

Article 133 – paragraph 2 a

Text proposed by the Commission

Amendment

(b) the following paragraph 2a is inserted: **deleted**

2a. Where an institution is bound by the output floor, both of the following shall apply:

(a) the amount of CET1 capital it is required to have in accordance with the first subparagraph shall be capped by the following amount:

null

where:

E_T = the un-floored total risk exposure amount of the institution calculated in accordance with Article 92(4) of Regulation (EU) No 575/2013’;

E_i = the un-floored risk exposure amount of the institution for the subset of exposures i calculated in accordance with Article 92(4) of Regulation (EU) No 575/2013;

$r_T, r_i = r_T$ and r_i as defined in the first subparagraph.

(b) the competent or designated authority, as applicable, shall review without undue delay the calibration of the systemic risk buffer rate or rates, as applicable, to ensure they remain appropriate and do not double-count the

risks that are already covered by the fact that the institution is bound by the output floor.

The calculation in point (a) shall apply until the designated authority has completed the revision set out in point (b) and has published a new decision on the calibration of the systemic risk buffer rate or rates in accordance with the procedure set out in this Article. As of that moment, the cap in point (a) shall no longer apply.;

Or. en

Amendment 553
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 1 – point 31 – point b
Directive (EU) 2013/36
Article 133 – paragraph 2 a

Text proposed by the Commission

Amendment

(b) the following paragraph 2a is inserted: *deleted*

2a. Where an institution is bound by the output floor, both of the following shall apply:

(a) the amount of CET1 capital it is required to have in accordance with the first subparagraph shall be capped by the following amount:

null

where:

E_T = the un-floored total risk exposure amount of the institution calculated in accordance with Article 92(4) of Regulation (EU) No 575/2013’;

E_i = the un-floored risk exposure amount of the institution for the subset of exposures i calculated in accordance with Article 92(4) of Regulation (EU) No

575/2013;

r_T , $r_i = r_T$ and r_i as defined in the first subparagraph.

(b) the competent or designated authority, as applicable, shall review without undue delay the calibration of the systemic risk buffer rate or rates, as applicable, to ensure they remain appropriate and do not double-count the risks that are already covered by the fact that the institution is bound by the output floor.

The calculation in point (a) shall apply until the designated authority has completed the revision set out in point (b) and has published a new decision on the calibration of the systemic risk buffer rate or rates in accordance with the procedure set out in this Article. As of that moment, the cap in point (a) shall no longer apply.;

Or. en

Justification

There should not be any double counting of risks between the systemic risk buffer requirements and the output floor, regardless of whether an institution is bound by the output floor or not.

Amendment 554

Luis Garicano

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point b

Directive 2013/36/EU

Article 133 – paragraph 2 a

Text proposed by the Commission

Amendment

(b) the following paragraph 2a is inserted: **deleted**

2a. Where an institution is bound by the output floor, both of the following shall apply:

(a) the amount of CET1 capital it is required to have in accordance with the first subparagraph shall be capped by the following amount:

null

where:

E_T = the un-floored total risk exposure amount of the institution calculated in accordance with Article 92(4) of Regulation (EU) No 575/2013’;

E_i = the un-floored risk exposure amount of the institution for the subset of exposures i calculated in accordance with Article 92(4) of Regulation (EU) No 575/2013;

$r_T, r_i = r_T$ and r_i as defined in the first subparagraph.

(b) the competent or designated authority, as applicable, shall review without undue delay the calibration of the systemic risk buffer rate or rates, as applicable, to ensure they remain appropriate and do not double-count the risks that are already covered by the fact that the institution is bound by the output floor.

The calculation in point (a) shall apply until the designated authority has completed the revision set out in point (b) and has published a new decision on the calibration of the systemic risk buffer rate or rates in accordance with the procedure set out in this Article. As of that moment, the cap in point (a) shall no longer apply.;

Or. en

Justification

Suggested by the ECB

Amendment 555

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point b

Directive 2013/36/EU

Article 133 – paragraph 2 a

Text proposed by the Commission

Amendment

2a. Where an institution is bound by the output floor, both of the following shall apply: **deleted**

(a) the amount of CET1 capital it is required to have in accordance with the first subparagraph shall be capped by the following amount:

null

where:

E_T = the un-floored total risk exposure amount of the institution calculated in accordance with Article 92(4) of Regulation (EU) No 575/2013’;

E_i = the un-floored risk exposure amount of the institution for the subset of exposures i calculated in accordance with Article 92(4) of Regulation (EU) No 575/2013;

r_T , $r_i = r_T$ and r_i as defined in the first subparagraph.

(b) the competent or designated authority, as applicable, shall review without undue delay the calibration of the systemic risk buffer rate or rates, as applicable, to ensure they remain appropriate and do not double-count the risks that are already covered by the fact that the institution is bound by the output floor. **fd**

The calculation in point (a) shall apply until the designated authority has completed the revision set out in point (b) and has published a new decision on the calibration of the systemic risk buffer rate or rates in accordance with the procedure set out in this Article. As of that moment, the cap in point (a) shall no longer apply.;

Amendment 556
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 1 – point 31 – point c
Directive (EU) 2013/36
Article 133 – paragraph 8 – point c

Text proposed by the Commission

Amendment

(c) in paragraph 8, point (c) is replaced by the following: **deleted**

(c) the systemic risk buffer is not to be used to address any of the following:

(i) risks that are covered by Articles 130 and 131;

(ii) risks that are fully covered by the calculation set out in Article 92(3) of Regulation (EU) No 575/2013.;

Or. en

Justification

There should not be any double counting of risks between the systemic risk buffer requirements and the output floor, regardless of whether an institution is bound by the output floor or not.

Amendment 557
Ville Niinistö
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 31 – point c
Directive 2013/36/EU
Article 133 – paragraph 8 – point c

Text proposed by the Commission

Amendment

(c) in paragraph 8, point (c) is replaced by the following: **deleted**

(c) the systemic risk buffer is not to be used to address any of the following:

(i) risks that are covered by Articles 130 and 131;

(ii) risks that are fully covered by the calculation set out in Article 92(3) of Regulation (EU) No 575/2013.;

Or. en

Amendment 558

Luis Garicano

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point c

Directive 2013/36/EU

Article 133 – paragraph 8 – point c

Text proposed by the Commission

Amendment

(c) in paragraph 8, point (c) is replaced by the following: *deleted*

(c) the systemic risk buffer is not to be used to address any of the following:

(i) risks that are covered by Articles 130 and 131;

(ii) risks that are fully covered by the calculation set out in Article 92(3) of Regulation (EU) No 575/2013.;

Or. en

Justification

Suggested by the ECB

Amendment 559

Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point d

Directive 2013/36/EU

Article 133 – paragraph 9 – point g

Text proposed by the Commission

Amendment

**(d) in paragraph 9, the following point
(g) is added:** *deleted*

**(g) how the calculation set out in
Article 92(3) of Regulation (EU) No
575/2013 affects the calibration of the
systemic risk buffer rate or rates, as
applicable, that the competent authority
or the designated authority, as applicable,
intends to impose.;**

Or. en

Justification

There should not be any double counting of risks between the systemic risk buffer requirements and the output floor, regardless of whether an institution is bound by the output floor or not.

Amendment 560

Luis Garicano

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point d

Directive 2013/36/EU

Article 133 – paragraph 9 – point g

Text proposed by the Commission

Amendment

**(d) in paragraph 9, the following point
(g) is added:** *deleted*

**(g) how the calculation set out in
Article 92(3) of Regulation (EU) No
575/2013 affects the calibration of the
systemic risk buffer rate or rates, as
applicable, that the competent authority
or the designated authority, as applicable,
intends to impose.;**

Or. en

Justification

Suggested by the ECB

Amendment 561

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 – point d

Directive 2013/36/EU

Article 133 – paragraph 9 – point g

Text proposed by the Commission

Amendment

(d) *in paragraph 9, the following point (g) is added:* **deleted**

(g) *how the calculation set out in Article 92(3) of Regulation (EU) No 575/2013 affects the calibration of the systemic risk buffer rate or rates, as applicable, that the competent authority or the designated authority, as applicable, intends to impose.;*

Or. en

Amendment 562

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 a (new)

Directive 2013/36/EU

Article 141 – paragraph 1

Present text

Amendment

1. *An* institution that meets the combined buffer requirement **shall not** make a distribution in connection with Common Equity Tier 1 capital to an extent that would decrease its Common Equity Tier 1 capital to a level where the combined buffer requirement is no longer met.

(31a) *in Article 141 paragraph 1 is replaced by the following:*

1. **Competent authorities shall prohibit any** institution that meets the combined buffer requirement **to** make a distribution in connection with Common Equity Tier 1 capital to an extent that would decrease its Common Equity Tier 1 capital to a level where the combined buffer requirement is no longer met.

(This amendment applies throughout the

text)

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 563

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 b (new)

Directive 2013/36/EU

Article 141 – paragraph 2

Present text

2. An institution that fails to meet the combined buffer requirement **shall** calculate the maximum distributable amount (MDA) in accordance with paragraph 4 and **shall** notify the competent authority thereof.

Where the first subparagraph applies, the institution **shall not undertake** any of the following actions before it has calculated the MDA:

- (a) make a distribution in connection with Common Equity Tier 1 capital;
- (b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the combined buffer requirement; or
- (c) make payments on Additional Tier 1 instruments

Amendment

(31b) in Article 141 paragraph 2 is replaced by the following:

"2. **Competent authorities shall require** an institution that fails to meet the combined buffer requirement **to** calculate the maximum distributable amount (MDA) in accordance with paragraph 4 and **to** notify the competent authority thereof.

Where the first subparagraph applies, **competent authorities shall prohibit** the institution **from undertaking** any of the following actions before it has calculated the MDA:

- (a) make a distribution in connection with Common Equity Tier 1 capital;
- (b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the combined buffer requirement; or
- (c) make payments on Additional Tier 1 instruments.

(This amendment applies throughout the text.)

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 564

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 c (new)

Directive 2013/36/EU

Article 141 – paragraph 3

Present text

Amendment

3. *Where* an institution fails to meet or exceed its combined buffer requirement, **it shall not** distribute more than the MDA calculated in accordance with paragraph 4 through any action referred to in points (a), (b) and (c) of the second subparagraph of paragraph 2.

(31c) in Article 141 paragraph 3 is replaced by the following:

"3. **In addition to at least one of the measures referred to in Article 104 of this Directive, competent authorities shall prohibit** an institution **that** fails to meet or exceed its combined buffer requirement **to** distribute more than the MDA calculated in accordance with paragraph 4 through any action referred to in points (a), (b) and (c) of the second subparagraph of paragraph 2.

Any distribution linked to the MDA calculated in accordance with paragraphs 4 and 5 of this Article shall be subject to the authorisation by the competent authority of the capital conservation plan referred to in Article 142

(This amendment applies throughout the text.)

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-2022010>

Amendment 565

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 d (new)

Present text

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

Amendment

(31d) in Article 141 paragraph 4 is replaced by the following:

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

(This amendment applies throughout the text.)

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 566

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 e (new)

Directive 2013/36/EU

Article 141 – paragraph 8

Present text

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

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

Amendment

(31e) in Article 141 paragraph 8 is deleted.

- (i) *Common Equity Tier 1 capital,*
- (ii) *Additional Tier 1 capital,*
- (iii) *Tier 2 capital;*
- (b) *the amount of its interim and year-end profits;*
- (c) *the MDA calculated in accordance with paragraph 4;*
- (d) *the amount of distributable profits it intends to allocate between the following:*
 - (i) *dividend payments,*
 - (ii) *share buybacks,*
 - (iii) *payments on Additional Tier 1 instruments,*
 - (iv) *the payment of variable remuneration or discretionary pension benefits, whether by creation of a new obligation to pay, or payment pursuant to an obligation to pay created at a time when the institution failed to meet its combined buffer requirements.*

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 567

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 f (new)

Directive 2013/36/EU

Article 141 b – paragraph 1

Present text

Amendment

1. An institution that meets the leverage ratio buffer requirement pursuant to Article 92(1a) of Regulation (EU) No 575/2013 **shall not make** a distribution in

(31f) in Article 141b paragraph 1 is replaced by the following:

"1. **Competent authorities shall prohibit** an institution that meets the leverage ratio buffer requirement pursuant to Article 92(1a) of Regulation (EU) No

connection with Tier **1 capital** to an extent that would decrease its Tier 1 capital to a level where the leverage ratio buffer requirement is no longer met

575/2013 **from making** a distribution in connection with Tier **1 capital** to an extent that would decrease its Tier 1 capital to a level where the leverage ratio buffer requirement is no longer met. "

(This amendment applies throughout the text.)

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 568

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 g (new)

Directive 2013/36/EU

Article 141 b – paragraph 2 – subparagraph 1

Present text

2. An institution that fails to meet the leverage ratio buffer requirement **shall** calculate the leverage ratio related maximum distributable amount (L-MDA) in accordance with paragraph 4 and **shall** notify the competent authority *thereof*.

Amendment

(31g) in Article 141b (2), subparagraph 1 is replaced by the following:

"2. **Competent authorities shall require** an institution that fails to meet the leverage ratio buffer requirement **to** calculate the leverage ratio related maximum distributable amount (L-MDA) in accordance with paragraph 4 and **to** notify the competent authority *thereof*."

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 569

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 h (new)

Directive 2013/36/EU

Article 141 b – paragraph 3

Present text

Amendment

3. **Where** an institution fails to meet or exceed its leverage ratio buffer requirement, **it shall not** distribute more than the L-MDA calculated in accordance with paragraph 4 **through** any action referred to in points (a), (b) and (c) of the second subparagraph of paragraph 2.

(31h) in Article 141b paragraph 3 is replaced by the following:

"3. **In addition to at least one of the measures under Article 104, competent authorities shall prohibit** an institution **that** fails to meet or exceed its leverage ratio buffer requirement **to** distribute more than the L-MDA calculated in accordance with paragraph 4 **through** any action referred to in points (a), (b) and (c) of the second subparagraph of paragraph 2.

Any distribution linked to the L-MDA calculated in accordance with paragraphs 4 and 5 of this Article shall be subject to the authorisation by the competent authority of the capital conservation plan referred to in Article 142.

(This amendment applies throughout the text.)

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 570

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 i (new)

Directive 2013/36/EU

Article 141 b – paragraph 4

Present text

Amendment

4. Institutions **shall** calculate the L-MDA by multiplying the sum calculated in accordance with paragraph 5 by the factor determined in accordance with paragraph 6. The L-MDA shall be reduced by any amount resulting from any of the actions

(31i) in Article 141b paragraph 4 is replaced by the following:

"4. **Competent authorities shall require** institutions **to** calculate the L-MDA by multiplying the sum calculated in accordance with paragraph 5 by the factor determined in accordance with paragraph 6. The L-MDA shall be reduced by any

referred to in point (a), (b) or (c) of the second subparagraph of paragraph 2.

amount resulting from any of the actions referred to in point (a), (b) or (c) of the second subparagraph of paragraph 2.

(This amendment applies throughout the text.)

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 571

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 31 j (new)

Directive 2013/36/EU

Article 141 b – paragraph 8

Present text

Amendment

8. Where an institution fails to meet the leverage ratio buffer requirement and intends to distribute any of its distributable profits or undertake an action referred to in points (a), (b) and (c) of the second subparagraph of paragraph 2 of this Article, it shall notify the competent authority and provide the information listed in Article 141(8), with the exception of point (a)(iii) thereof, and the L-MDA calculated in accordance with paragraph 4 of this Article.

**(31j) Article 141b paragraph 8 is deleted.
deleted**

(This amendment applies throughout the text.)

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 572

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 32 a (new)

Directive 2013/36/EU

Article 142 a (new)

Present text

Amendment

(32a) the following article is inserted:

Article 142a

Restrictions in times of crisis

1. Without prejudice to Articles 141 and 141b, competent authorities shall have the powers to temporarily suspend variable remunerations or discretionary pension benefits, shares buy-back operations and distributions or interest payments by all credit institution to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the institution.

2. Such temporary suspension powers shall be imposed on credit institutions whenever the Commission determines by means of an implementing act that the single market is experiencing a serious economic disturbance. The Commission shall also determine that the single market is experiencing a serious economic disturbance whenever the Council has adopted a Decision determining the existence of an emergency situation that may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole of the financial system in the Union pursuant to Article 18 of Regulation (EU) No 1093/2010. The implementing act shall specify the length of such temporary suspensions that shall not exceed 12 months unless the serious economic disturbance lasts more than 12 months in which case the Commission

shall extend the length of the temporary suspensions.

3. The Commission shall act upon a formal opinion issued by the European Systemic Risk Board and indicating that the Union's financial markets are facing a systemic risk that warrants the extraordinary measures of this Article. The Commission shall inform the European Parliament and the Council ahead of adopting the implementing act referred to in paragraph 3. Whenever the Commission determines that there is a serious economic disturbance in the single market, competent authorities shall require the credit institution to present an action plan within three months specifying internal measures and triggers to restore the soundness of an institution in accordance with the provisions of Article 104 of Directive 2013/36/EU. The action plan shall also provide a roadmap and a strategy to restore compliance with supervisory requirements pursuant to Directive 2013/36/EU and to this Directive and define a deadline for its implementation. Competent authorities shall review and approve such actions plans.

4. The power to adopt an implementing act referred to in paragraph 2 is conferred on the Commission acting in accordance with the examination procedure referred to in Article 147(2).

(This amendment applies throughout the text.)

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 573

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 32 a (new)

Present text

(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

Amendment

(32a) in Article 143(1), point c) is amended as follows:

‘(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

For the latter criteria and in respect to, at least, for small and non-complex institutions as defined in Article 4, paragraph 1, point 145 of Regulation (EU) No 2019/876 a positive impact on proportionality needs to be achieved by providing the following elements be unambiguously published in addition to the existing ones:

(i) a simplified approach to individuate material risks;

(ii) simplified approaches to quantify the single material risks under Chapter 2 (review processes) Section II (arrangements, processes and mechanisms of institutions) Sub-Section 2 (technical criteria concerning the organisation and treatment of risks) and under Article 98 of these Directive;

(iii) guidance on scope, methodologies, scenario and data for small and non-complex institutions’ stress testing;’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 574
Gianna Gancia

Proposal for a directive
Article 1 – paragraph 1 – point 32 a (new)

Present text

(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

Amendment

(32a) in Article 143(1), point (c) is replaced by the following:

(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

For the latter criteria and in respect to, at least, for small and non-complex institutions as defined in Article 4(1), point 145 of Regulation (EU) No 2019/876, a positive impact on proportionality needs to be achieved by ensuring that in addition to the existing ones, the following elements are clearly disclosed:

(i) a simplified approach to individuate material risks

(ii) simplified approaches to quantify the single material risks under Chapter 2 (review processes) Section II (arrangements, processes and mechanisms of institutions) Sub-Section 2 (technical criteria concerning the organisation and treatment of risks) and under Article 98 of this Directive

(iii) guidance on scope, methodologies, scenario and data for small and non-complex institutions' stress testing;

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 575

Raffaele Fitto

Proposal for a directive

Article 1 – paragraph 1 – point 32 a (new)

Present text

(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

Amendment

(32a) in Article 143(1), point c) is replaced by the following:

‘(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

For the latter criteria and in respect to, at least, for small and non-complex institutions as defined in Article 4, paragraph 1, point 145 of Regulation (EU) No 2019/876 a positive impact on proportionality needs to be achieved by providing the following elements be unambiguously published in addition to the existing ones:

(i) a simplified approach to individuate material risks

(ii) simplified approaches to quantify the single material risks under Chapter 2 (review processes) Section II (arrangements, processes and mechanisms of institutions) Sub-Section 2 (technical criteria concerning the organisation and treatment of risks) and under Article 98 of these Directive

(iii) guidance on scope, methodologies, scenario and data for small and non-complex institutions’ stress testing;’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 576

Marco Zanni, Antonio Maria Rinaldi, Valentino Grant

Proposal for a directive
Article 1 – paragraph 1 – point 32 a (new)
Directive 2013/36/EU
Article 143 – paragraph 1 – point c

Present text

(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

Amendment

(32a) in Article 143(1), point c is replaced by the following:

‘(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

For the latter criteria and in respect to, at least, for small and non-complex institutions as defined in Article 4, paragraph 1, point 145 of Regulation (EU) No 2019/876 a positive impact on proportionality needs to be achieved by providing the following elements be unambiguously published in addition to the existing ones:

(i) a simplified approach to individuate material risks

(ii) simplified approaches to quantify the single material risks under Chapter 2 (review processes) Section II (arrangements, processes and mechanisms of institutions) Sub-Section 2 (technical criteria concerning the organisation and treatment of risks) and under Article 98 of these Directive

(iii) guidance on scope, methodologies, scenario and data for small and non-complex institutions’ stress testing;’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 577
Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 32 a (new)

Directive 2013/36/EU

Article 143 – paragraph 1 – point c

Present text

(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4);

Amendment

(32a) in Article 143(1), point (c) is replaced by the following:

"(c) the general criteria and methodologies they use in the review and evaluation referred to in Article 97, including the criteria for applying the principle of proportionality as referred to in Article 97(4).

For the latter criteria and in respect to, at least, small and non-complex institutions as defined in Article 4, paragraph 1, point 145 of Regulation (EU) No 2019/876, a positive impact on proportionality needs to be achieved by providing the following elements be unambiguously published in addition to the existing ones:

(i) a simplified approach to individuate material risks;

(ii) simplified approaches to quantify the single material risks under Title VII, Chapter 2, Section II, Sub-Section 2 (Technical criteria concerning the organisation and treatment of risks) and under Article 98 of this Directive;

(iii) guidance on scope, methodologies, scenario and data for small and non-complex institutions' stress testing.

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 578

Ville Niinistö

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 32 a (new)

Directive 2013/36/EU
Article 145 – paragraph 1 – point i a (new)

Present text

Amendment

(32a) in Article 145, the following point is added:

‘(ia) content and format of the transition plans referred to in Article 76 to ensure a consistent application of this Directive.’

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013L0036-20220101>

Amendment 579

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The provisions necessary to comply with the amendments set out in Article 1, point (20), on suitability assessment shall apply from [OP please insert the date = 24 months from date of application of this amending Directive].

Or. en

Amendment 580

Carlo Calenda

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The provisions necessary to comply with the amendments set out in Article 1, point (20), on suitability assessment shall apply from [OP please insert the date = 24 months from date of application of this

amending Directive].

Or. en

Amendment 581

Raffaele Fitto

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The provisions necessary to comply with the amendments set out in Article 1, point (20), on suitability assessment shall apply from [OP please insert the date = 24 months from date of application of this amending Directive].

Or. en

Amendment 582

Gianna Gancia

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 4

Text proposed by the Commission

Amendment

By derogation from the preceding subparagraph, Member States shall apply the provisions on reporting on third country branches in Title VI, Chapter 1, Section II, Sub-section 4 of Directive 2013/36/EU, as inserted by this Directive, from the date of application laid down in the second subparagraph of this Article.

The provisions *necessary to comply with the amendments set out in Article 1, point (20), on suitability assessment shall apply from ... [24 months from date of application of this amending Directive].*

Or. en