

EBA VOTING ARRANGEMENTS:

- (7) Decisions concerning breaches of Union law and settlement of disagreements should be examined by an independent panel composed of voting members of the Board of Supervisors which do not have any conflicts of interest, appointed by the Board of Supervisors. The decisions proposed by the panel to the Board of Supervisors should be ~~considered as~~ adopted ~~unless rejected~~ by a simple majority, ~~which should include an adequate number of votes from~~ of the members of the Board of Supervisors from Member States participating in the SSM and a simple majority of its members from Member States that do not participate in the SSM.

Recital 7c deleted - (inserted as new Article 44 (4a))

New Recital 14a

14a. Appointments of the members of EBA internal bodies and committees shall ensure a geographical balance among Member States.

7. Article 44(1) is replaced by the following:

"1. Decisions of the Board of Supervisors shall be taken by a simple majority of its members. Each member shall have one vote.

With regard to the acts specified in Articles 10 to 16 and measures and decisions adopted under the third subparagraph of Article 9(5) and Chapter VI and by way of derogation from the first subparagraph of this paragraph, the Board of Supervisors shall take decisions on the basis of a qualified majority of its members, as defined in Article 16(4) of the Treaty on European Union and in Article 3 of the Protocol (No 36) on transitional provisions, which shall include at least a simple majority from members of participating Member States, in accordance with Regulation (EU) No .../...[127(6) TFEU Council Regulation], and a simple majority from members of non participating Member States.

With regard to decisions in accordance with Articles 17 and 19, the decision proposed by the panel shall be ~~considered as~~ adopted ~~unless it is rejected~~ by a simple majority of the its members of the Board of Supervisors from participating Member States, in accordance with Regulation (EU) No .../...[127(6) TFEU Council Regulation], and a simple majority of its members from non participating Member States.

By derogation from the third subparagraph, from the date when four or **fewer less** Member States are not participating Member States in accordance with Regulation (EU) No .../... [127(6) TFEU Council Regulation], the decision proposed by the panel shall be ~~considered as~~ adopted ~~unless it is rejected~~ by a simple majority of ~~the its~~ members **of the Board of Supervisors** which shall include at least one vote from members **from of** those Member States.

Each member shall have one vote.

With regard to the composition of the panel in accordance with Article 41(2), the Board of Supervisors shall strive for consensus. In the absence of consensus, decisions of the Board of Supervisors shall be taken by a majority of three quarters of its members. Each member shall have one vote.

With regard to decisions adopted under Article 18(3) and (4), and by way of derogation from the first subparagraph of this paragraph, the Board of Supervisors shall take decisions on the basis of a simple majority of its members from participating Member States, in accordance with Regulation (EU) No .../...[127(6) TFEU Council Regulation], and a simple majority of its members from non participating Member States."

Article 44 (4a) NEW

" 4a. Notwithstanding the voting arrangements for EBA set out in this Regulation, the Board of Supervisors of EBA should strive for consensus when taking its decisions."

UK ISSUES - REVIEW OF EBA VOTING ARRANGEMENTS AND COMMISSION REPORT:

7a. The following Article 81a is inserted:

"Article 81a

Review of voting arrangements

As from the date on which the number of Member States that are not participating Member States reaches four, the Commission shall review and report **to the European Parliament, the European Council and the Council** on the voting arrangements described in Articles 41 and 44.

~~The report shall be forwarded to the European Parliament and to the Council."~~

Article 2

Without prejudice to Article 81 of Regulation (EU) No 1093/2010, by 1 January 2016, ~~or at any earlier time when participating Member States as defined in Regulation [127(6) TFEU Council Regulation] together have the votes necessary to reach a qualified majority in accordance with Article 16 TFEU and Article 3 of the Protocol No 36 on transitional provisions,~~ the Commission shall publish a report on the application of the provisions of this Regulation in relation to:

- ~~(a) — the suitability of the voting modalities;~~
- (b) the composition of the Management Board; and
- (c) the composition of the independent panel preparing decisions for the purposes of Articles 17 and 19.

The report shall take into account in particular any developments in the number of Member States whose currency is the Euro or whose competent authorities have entered into a close cooperation in accordance with Article 6 of Regulation .../... and shall examine whether in light of such developments any further adjustments of those provisions are necessary to ensure that EBA decisions are taken in the interest of maintaining and strengthening the internal market for financial services.

ECB REGULATION - RECITALS 31c AND 45a

31c. This Regulation does not affect the application of the rules established by Articles 34 and 42 of the Protocol in the Statute of the ECB. The acts adopted by the ECB under this Regulation should not create any rights or impose any obligations in non-participating Member States, except where such acts are in accordance with relevant Union law, in accordance with Protocols No 4 and 15.

45a. The Commission has stated in its Communication of 28 November 2012 on a Blueprint for a deep and genuine economic and monetary union that "Article 127 paragraph 6 TFEU could be amended to make the ordinary legislative procedure applicable and to eliminate some of the legal constraints it currently places on the design of the SSM (e.g. enshrine a direct and irrevocable opt-in by non-euro area Member States to the SSM, beyond the model of "close cooperation", grant non-euro area Member States participating in the SSM fully equal rights in the ECB's decision-making, and go even further in the internal separation of decision-making on monetary policy and on supervision)".

ECB REGULATION - ARTICLE 1:

Article 1

Subject matter and scope

This Regulation confers on the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions, with a view to contributing to the safety and soundness of credit institutions and the stability of the financial system within the EU and each Member State, with due regard for the unity and integrity of the internal market.

The institutions referred to in Article 2 of the Directive 2006/48/EC are excluded from the supervisory tasks conferred to ECB in accordance with Article 4 of this Regulation. The scope of the ECB's supervisory tasks is limited to the prudential regulation of credit institutions pursuant to this Regulation. This Regulation shall not confer on the ECB any other supervisory tasks, **such as tasks relating to the prudential supervision of Central Counterparties.**

No action, proposal or policy of the ECB shall, directly or indirectly, discriminate against any Member State or group of Member States as a venue for the provision of banking or financial services in any currency.

This regulation is without prejudice to the responsibilities and related powers of the competent authorities of the participating Member States to carry out supervisory tasks not conferred on the ECB by this Regulation.

This Regulation is also without prejudice to the responsibilities and related powers of the competent or designated authorities of the participating Member States to apply macro-prudential tools not provided for in relevant acts of Union law.

ECB REGULATION - ARTICLE 5:

Article 5

Cooperation within the Single Supervisory Mechanism

1. The ECB shall carry out its tasks within a single supervisory mechanism composed of the ECB and national competent authorities. The ECB shall be responsible for the effective and consistent functioning of the single supervisory mechanism.

2. Both the ECB and national competent authorities shall be subject to a duty of cooperation in good faith, and an obligation to exchange information.

Without prejudice to the ECB's power to receive directly, or have direct access to information reported, on an ongoing basis, by credit institutions, the national competent authorities shall in particular provide the ECB with all information necessary for the purposes of carrying out the tasks conferred upon the ECB by this Regulation.

3. Where appropriate and without prejudice to the responsibility and accountability of the ECB for the tasks conferred on it by this Regulation, national competent authorities shall be responsible for assisting the ECB, under the conditions set out in the framework mentioned in paragraph 7, with the preparation and implementation of any acts relating to the tasks referred to in Article 4 related to all credit institutions, including assistance in verification activities. They shall follow the instructions given by the ECB when performing the tasks mentioned in Article 4.

4. In relation to the tasks defined in Article 4 except for points (a) and (b) of paragraph 1 thereof, the ECB shall have the responsibilities set out in paragraph 5 and the national competent authorities shall have the responsibilities set out in paragraph 6, within the framework and subject to the procedures referred to in paragraph 7, for the supervision of the following credit institutions, financial holding companies or mixed financial holding companies, or branches, which are established in participating Member States, of credit institutions established in non-participating Member States:

- (a) Those that are less significant on a consolidated basis, at the highest level of consolidation within the participating Member States, or individually in the specific case of branches, which are established in participating Member States, of credit institutions established in non-participating Member States. The significance shall be assessed based on the following criteria:

- (i) size;
- (ii) importance for the economy of the EU or any participating Member State;
- (iii) significance of cross-border activities.

With respect to the first subparagraph above, a credit institution, or financial holding company or mixed financial holding company, shall not be considered less significant, unless justified by particular circumstances to be specified in the methodology, if any one of the following conditions are met:

- (i) the total value of its assets exceeds 30 billion euro; or,
- (ii) the ratio of its total assets over the GDP of the participating Member State of establishment exceeds 20%, **unless the total value of its assets is below 5 billion euro**; or,

~~(iii) it has established banking subsidiaries or branches in at least 2 other more than one participating Member States banking subsidiaries and its cross-border assets or liabilities represent a significant part of its total assets or liabilities subject to the conditions laid down in the methodology different from the one where it has its seat;~~ or,

(iii) following a notification by its national competent authority that it considers such an institution of significant relevance with regard to the domestic economy, the ECB takes a decision confirming such significance following a comprehensive assessment by the ECB, including a balance-sheet assessment, of that credit institution.

The ECB may also, on its own initiative, consider an institution to be of significant relevance where it has established banking subsidiaries in more than one participating Member States and its cross-border assets or liabilities represent a significant part of its total assets or liabilities subject to the conditions laid down in the methodology.

- (b) Those for which public financial assistance has ~~not~~ been requested or received directly ~~or indirectly~~ from the EFSF or the ESM **shall not be considered less significant.**

Notwithstanding the previous sub-paragraphs, the ECB shall carry out the tasks conferred upon it by this Regulation in respect of **the three most significant at least 2** credit institutions in each of the participating Member states, **unless justified by particular circumstances.**

5. With regard to the credit institutions referred to in paragraph 4, and within the framework defined in paragraph 7:
- (a) The ECB shall issue regulations, guidelines or **general** instructions, ~~including in relation to a specific credit institution,~~ to national competent authorities, according to which the tasks defined in Article 4 excluding letters (a) and (b) thereof are performed and supervisory decisions are adopted by national competent authorities. **Such instructions may refer to the specific powers in Article 13b, paragraph 2 for groups or categories of credit institutions for the purposes of ensuring the consistency of supervisory outcomes within the Single Supervisory Mechanism;**
- (b) **When necessary to ensure consistent application of high supervisory standards,** the ECB may at any time, on its own initiative **after consulting with national authorities** or upon request by a national competent authority, decide to exercise directly itself all the relevant powers for one or more credit institutions referred to in paragraph 4, **including in the case where ~~The same shall apply when~~ financial assistance has been requested or received indirectly from the EFSF or the ESM;**
- (c) The ECB shall exercise oversight over the functioning of the system, based on the responsibilities and procedures set out in this Article, and in particular paragraph 7(b);
- (d) The ECB may at any time make use of the powers referred to in Articles 9 to 12;

(e) The ECB may also request, on an ad hoc or continuous basis, information from the national competent authorities on the performance of the tasks carried out by them under this Article.

6. **Subject Without prejudice** to paragraph 5, national competent authorities shall **carry out and** be responsible for **the tasks referred to in Article 4(1) (aa), (c), (f), (g), (i), and (k) and** adopting **all relevant** supervisory decisions with regard to the credit institutions referred to in paragraph 4, points (a) first subparagraph ~~and (b)~~, within the framework and subject to the procedures referred to in paragraph 7.

Without prejudice to Articles 9 to 12, the national competent and designated authorities shall maintain the powers, in accordance with national law, to obtain information from credit institutions, holding companies, mixed holding companies and undertakings included in the consolidated financial situation of a credit institution and to perform on site inspections at those credit institutions, holding companies, mixed holding companies and undertakings. The national competent authorities shall inform the ECB, in accordance with the framework set out in paragraph 7, of the measures taken pursuant to this paragraph and closely coordinate those measures with the ECB.

The national competent authorities shall report to the ECB on a regular basis on the performance of the activities performed under this Article.

7. The ECB shall, in consultation with national competent authorities of participating Member States, and on the basis of a proposal from the Supervisory Board, adopt and make public a framework to organise the practical modalities of implementation of this Article. The framework shall include, at least, the following:

(a) the specific methodology for the assessment of the criteria referred to in paragraph 4(a) **and the criteria under which paragraph 4(b) ceases to apply to a specific credit institution** and the resulting arrangements for the purposes of implementing paragraphs 5 and 6. These arrangements and the methodology for the assessment of the criteria referred to in paragraph 4(a) shall be reviewed to reflect any relevant changes;

- (ab) the definition of the procedures, including time-limits, and the possibility to prepare draft decisions to be sent to the ECB for consideration, for the relation between the ECB and the national competent authorities regarding the supervision of credit institutions not considered as less significant in accordance with in paragraph 4;
- (b) the definition of the procedures, including time-limits, for the relation between the ECB and the national competent authorities regarding the supervision of credit institutions considered as less significant in accordance with in paragraph 4. Such procedures shall in particular require national competent authorities, depending on the cases defined in the framework, to:
 - i) notify the ECB of any **material** supervisory procedure;
 - ii) further assess, on ECB request, specific aspects of the procedure;
 - iii) transmit to the ECB **material** draft supervisory decision, on which the ECB may express its views ~~or any objections to be duly considered~~.

8. *deleted*

9. Wherever the ECB **is assisted by** ~~has recourse to~~ national competent authorities or designated authorities for the purpose of exercising the tasks conferred on it by this Regulation, **the ECB and the national competent authorities** ~~it~~ shall ~~do so~~ comply with the provisions set out in the relevant Union acts in relation to the allocation of responsibilities and cooperation between competent authorities from different Member States.

**POLISH ISSUE - ARTICLE 6 (6abb) + ARTICLE 26 POINT (g) NEW + RECITALS (29aa)
AND (36c):**

Article 6

*Close cooperation with the competent authorities of participating Member States whose currency is
not the Euro*

.....

6abb. If a non-euro participating Member State disagrees with a draft decision of the Supervisory Board, it shall inform the Governing Council of its reasoned disagreement within five working days of receiving the draft decision. The Governing Council shall then decide about the matter within five working days, taking fully into account those reasons, and explain **in writing** its decision to the Member State concerned. **The Member State concerned may request the ECB to terminate the close cooperation with immediate effect and will not be bound by the ensuing decision.**

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Article 26

Review

By 31 December 2015, and subsequently every three years thereafter, the Commission shall publish a report on the application of this Regulation, with a special emphasis on monitoring the potential impact on the smooth functioning of the Single Market. That report shall evaluate, inter alia:

.....

(g) the possible impact of the application of Article 6(6abb) on the functioning and integrity of the SSM.

The report shall be forwarded to the European Parliament and to the Council. The Commission shall make accompanying proposals, as appropriate.

Recital 29aa

(29aa) Taking into account that non-euro participating Member States are not present in the Governing Council and they cannot fully benefit from other mechanisms provided for euro area Member States, additional safeguards in the decision making process are

foreseen in this Regulation. However, those safeguards, in particular Article 6(6abb), should be used in duly justified, exceptional cases.

- (36c) The Governing Council of the ECB should invite the representatives from non-euro area participating Member States whenever it is contemplated by the Governing Council to object to a draft decision prepared by the Supervisory Board **or whenever the concerned national competent authorities inform the Governing Council of their reasoned disagreement with a draft decision of the Supervisory Board**, when such decision is addressed to the national authorities in respect of credit institutions from non-euro area participating Member States.

SEPARATION OF MONETARY POLICY AND SUPERVISORY FUNCTIONS WITHIN THE ECB

- ARTICLE 18 + RECITAL 35 AMENDED:

Article 18

Separation from monetary policy function

1. When carrying out the tasks conferred on it by this Regulation, the ECB shall pursue only the objectives set by this Regulation.
 2. The ECB shall carry out the tasks conferred upon it by this Regulation without prejudice to and separately from its tasks relating to monetary policy and from any other tasks. The tasks conferred upon the ECB by this regulation shall not interfere with the ECB's tasks relating to monetary policy and any other tasks. The staff involved in carrying out the tasks conferred on the ECB by this Regulation shall be organisationally separated and subject to separate reporting lines.
 3. For the purposes of paragraphs 1 and 2, the ECB shall adopt and make public any necessary internal rules, including rules regarding professional secrecy and information exchanges between the two functional areas.
- 3a. The ECB shall ensure that the operation of the Governing Council is completely differentiated as regards monetary and supervisory functions. Such differentiation shall include strictly separated meetings and agendas.**
- 3b. With a view to ensuring separation between monetary policy and supervisory tasks, the ECB shall create a mediation panel. This panel shall resolve differences of views expressed by the competent authorities of concerned participating Member States regarding an objection of the Governing Council to a draft decision by the Supervisory Board. This panel shall include one member per participating Member State, chosen by each Member State among the members of the Governing Council and the Supervisory Board, and shall decide by simple majority, with each member having one vote. The ECB shall adopt and make public a regulation setting up such mediation panel and its rules of procedure.**
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Addition to recital 35:

- (35) The ECB is responsible for carrying out monetary policy functions with a view to maintaining price stability in accordance with Article 127(1) TFEU. The exercise of supervisory tasks has the objective to protect the safety and soundness of credit institutions and the stability of the financial system. They should therefore be carried out in full separation, in order to avoid conflicts of interests and to ensure that each function is exercised in accordance with the applicable objectives. **The ECB should be able to ensure that the Governing Council operates in a completely differentiated manner as regards monetary and supervisory functions. Such differentiation should at least include strictly separated meetings and agendas.**

ARTICLE 19:

Article 19

Supervisory board

1. The planning and execution of the tasks conferred upon the ECB, shall be fully undertaken by an internal body composed of its ~~e~~**Chair and Vice Chair**, appointed in accordance with paragraph 2, ~~its vice-chair~~ and **four** ~~three~~ representatives of the ECB, appointed in accordance with paragraph 2a, and one representative of the national authority competent for the supervision of credit institutions in each participating Member State (hereinafter "Supervisory Board"). **All members of the Supervisory Board shall act in the interest of the Union as a whole.**

Where the competent authority is not a central bank, the member of the Supervisory Board referred to in this paragraph may decide to bring a representative from the Member State's central bank. For the purposes of the voting procedure set out in paragraph 2ab, the representatives of the authorities of any one Member State shall together be considered as one member.

2. On the basis of a proposal made by the ECB after consulting the European Parliament and hearing the Supervisory Board, the Council shall adopt an implementing decision to appoint the Chair **and the Vice-Chair** of the Supervisory Board. **The Chair shall be chosen** from among individuals of recognised standing and experience in banking and financial matters and who are not members of the Governing Council. **The Vice Chair of the Supervisory Board shall be chosen from among the members of the Executive Board of the ECB.** The Council shall act by qualified majority without taking into account the vote of the members of the Council which are not participating Member States.

Once appointed, the Chair shall be a full-time professional and shall not hold any offices at national competent authorities. The term of office shall be five years and shall not be renewable.

- 2a. ~~The Vice Chair of the Supervisory Board shall be appointed by the Governing Council from among the members of the Executive Board of the ECB.~~ The four ~~three~~ representatives of the ECB appointed by the Governing Council shall not perform duties directly related to the monetary function of the ECB. All the ECB representatives shall have voting rights.
- 2ab. Decisions of the Supervisory Board shall be taken by a simple majority of its members. Each member shall have one vote. In case of a draw, the Chair shall have a casting vote.
- 2b. By derogation from paragraph (2ab), the Supervisory Board shall take decisions on the adoption of regulations pursuant to Article 4(3), on the basis of a qualified majority of its members, as defined in Article 16(4) of the Treaty on European Union and in Article 3 of the Protocol (No 36) on transitional provisions for the members representing the participating Member State's authorities. Each of the four representatives of the ECB appointed by the Governing Council shall have a vote equal to the median vote of the other members.
3. Without prejudice to the provisions of Article 5, the Supervisory Board will carry out preparatory works regarding the supervisory tasks conferred upon the ECB and propose to the Governing Council of the ECB complete draft decisions to be adopted by the latter, pursuant to a procedure to be established by the ECB. The draft decisions will be transmitted at the same time to the Member States concerned. A draft decision will be deemed adopted unless the Governing Council objects within a period to be defined in the procedure mentioned above but not exceeding a maximum period of 10 working days. However, if a non-euro participating Member State disagrees with a draft decision of the Supervisory Board, the procedure set out in Article 6 (6abb) shall apply. In emergency situations the aforementioned period shall not exceed 48 hours. If the Governing Council objects to a draft decision, it shall state the reasons for doing so in writing, in particular stating monetary policy concerns. If a decision is changed following an objection by the Governing Council, a non-euro participating Member State may notify the ECB of its reasoned disagreement with the objection and the procedure set out in Article 6(6ab) will apply.

3a. deleted

4. A secretariat shall support the activities of the supervisory board, including preparing the meetings on a full time basis.

4a. The Supervisory Board, voting in accordance with the rule set out in paragraph 2ab, shall establish ~~select from among its members~~ a steering committee from among its members with a more limited composition ~~to which~~-supports its activities, including preparing the meetings.

The steering committee of the Supervisory Board shall have no decision-making powers. The steering committee shall be chaired by the Chair ~~or and~~ Vice-Chair of the Supervisory Board ~~and shall be composed of six other members of the Supervisory Board representing national competent authorities~~. The composition of the steering committee shall ensure a fair balance and rotation between national competent authorities, ~~ensuring rotation and having regard to the different structures and dimensions of financial systems and thus reflect the SSM as a whole~~. The steering committee shall execute its preparatory tasks in the interest of the Union as a whole and shall work in full transparency with the Supervisory Board.

5. *deleted*

6. ~~The Chair of the European Banking Authority and a~~ A representative member of the European Commission may participate as observers in the meetings of the supervisory board upon invitation. Observers shall not have an access to confidential information relating to individual institutions.

7. The Governing Council shall adopt internal rules setting out in detail its relation with the supervisory board. The supervisory board ~~It~~ shall also adopt ~~the its~~ rules of procedure, voting in accordance with the rule set out in paragraph 2ab ~~of the supervisory board~~. ~~and shall make b~~ Both sets of rules public shall be made public. The rules of procedure of the supervisory board shall ensure equal treatment of all participating Member States ~~and include rules on the term of office of the Chair and the Vice-Chair, which shall not exceed five years and shall not be renewable~~.

PHASING-IN - ARTICLE 27:

Article 27

Transitional provisions

1. Before 1 July 2013, the ECB shall publish the framework referred to in Article 5(7).
2. The ECB shall assume the tasks conferred on it by this regulation on 1 ~~March~~ ~~January~~ 2014 **or 12 months after the entry into force of this Regulation, whichever is later**, subject to the implementation arrangements and measures set out in the following subparagraphs.

After the entry into force of this Regulation, the ECB shall publish by means of regulations and decisions the detailed operational arrangements for the implementation of the tasks conferred upon it by this Regulation, ~~including if necessary a final date on which the ECB shall exercise in full the tasks conferred on it by this Regulation.~~

From the entry into force of this regulation, the ECB shall send a quarterly report to the European Parliament, the Council and the Commission on progress in the operational implementation of this Regulation.

If on the basis of the reports of the third subparagraph and following discussions of the reports in the Council and the European Parliament, it is shown that the ECB will not be ready for exercising in full its tasks on 1 ~~March~~ ~~January~~ 2014 **or 12 months after the entry into force of this Regulation, whichever is later**, the ECB may adopt a decision to set ~~a~~ ~~the~~ date **later than the one** referred to in the ~~first~~ ~~second~~ sub-paragraph ~~to 1 April 2014 at the latest~~ to ensure continuity during the transition from national supervision to the SSM, and based on the availability of staff, the setting up of appropriate reporting procedures and arrangements for cooperation with national supervisors pursuant to Article 5.

3. **Notwithstanding paragraph 2, and without prejudice to the exercise of investigatory powers conferred on it under this Regulation,** from *[date of entry into force of this Regulation]*, the ECB may start carrying out the tasks conferred on it by this Regulation **other than adopting final supervisory decisions** in respect of any credit institution, financial holding company or mixed financial holding company and following a decision addressed to the entities concerned and to the national competent authorities of the participating Member States concerned.

Notwithstanding paragraph 2, if the ESM unanimously requests the ECB to take over direct supervision of a credit institution, financial holding company or mixed financial holding company as a precondition for its direct recapitalisation,

~~Notwithstanding the first sub-paragraph,~~ the ECB **may shall immediately** start carrying out the tasks conferred on it by this Regulation ~~from *[date of entry into force of this Regulation]*,~~ in respect of **that any** credit institution, financial holding company or mixed financial holding company **for which public financial assistance is granted requested directly by from the EFSF or the ESM,** and following a decision addressed to the entities concerned and to the national competent authorities of the participating Member States concerned.

~~Notwithstanding the previous subparagraphs, the ECB shall start carrying out the tasks conferred on it by this Regulation from *[6 months from the date of entry into force of this Regulation]*, in respect of any credit institution, financial holding company or mixed financial holding company for which public financial assistance has been requested or received indirectly from the EFSF or the ESM, and following a decision addressed to the entities concerned and to the national competent authorities of the participating Member States concerned.~~

- ~~3a. Notwithstanding paragraphs 2 and 3, the ECB shall carry out the tasks conferred upon it by this regulation from *[date of entry into force of this Regulation]*, in respect of any credit institution, which its national competent authority considers of significant relevance with regard to the domestic economy, subject to a decision of the ECB confirming such significance following a comprehensive assessment by the ECB, including a balance-sheet assessment, of that credit institution.~~

4. From the entry into force of this Regulation, in view of the assumption of its tasks ~~in accordance with paragraphs 2 to 3a~~, the ECB may require the competent authorities of the participating Member States and the persons referred to in Article 9 to provide all relevant information for the ECB to carry out a comprehensive assessment, including a balance-sheet assessment, of the credit institutions of the participating Member State. The ECB shall carry out such an assessment at least in relation to the credit institutions not covered by Article 5(4). The credit institution and the competent authority shall supply the information requested.
5. *deleted*
6. Credit institutions authorised by participating Member States on the date referred to in Article 28 or where relevant on the date referred to in paragraphs 2 and 3, shall be deemed to be authorised in accordance with Article 13 and may continue to carry on their business. National competent authorities shall communicate to the ECB before the date of application of this Regulation or where relevant before the dates referred to in paragraphs 2 and 3 the identity of these credit institutions together with a report indicating the supervisory history and the risk profile of the institutions concerned, and any further information requested by the ECB. The information shall be submitted in the format requested by the ECB.

6a. Notwithstanding Article 19(2b), until the first date mentioned in Article 26, qualified majority voting and simple majority voting shall be applied together for the adoption of the Regulations mentioned in Article 4(3).

HUNGARIAN ISSUE - MoUs + CZECH ISSUE ON RECITAL 29a:

- (11a) **The ECB and the national competent authorities of non-participating Member States should conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their supervisory tasks under Union law in relation to the financial institutions defined in Article 2. The memorandum of understanding could, inter alia, clarify the consultation relating to decisions of the ECB having effect on subsidiaries or branches established in the non-participating Member State whose parent undertaking is established in a participating Member State, and the cooperation in emergency situations, including early warning mechanisms in accordance with the procedures set out in relevant Union law. The memorandum should be reviewed on a regular basis.**
- (29a) Nothing in this Regulation should alter in any way the current framework regulating the change of legal form of subsidiaries or branches and the application of such framework, or be understood or applied as providing incentives in favour of such change, ~~especially in the case of undertakings located in the territory of non-participating Member States.~~ In this respect, the responsibility of ~~national~~ competent authorities of Member States which do not participate in the Single Supervisory Mechanism should be fully respected, so that those authorities continue to enjoy sufficient supervisory tools and powers over credit institutions operating in their territory in order to have the capacity to fulfil this responsibility and effectively safeguard financial stability and public interest. **Moreover, in order to assist the competent authorities in fulfilling their responsibilities, timely information on a change of legal form of subsidiaries or branches should be provided to depositors and to the competent authorities.**

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