



**CREDIT INSTITUTIONS**  
in the EU Single Financial  
Market

dr hab.  
Anna Jurkowska-Zeidler,  
Prof. UG

---

---

---

---

---

---

---

---



**The new legal framework of  
european banking**

- The new framework divides the current Directive 2006/48/EU (Capital Requirements Directive) into two legislative instruments: a directive 2013/36/EU governing the access to deposit-taking activities and a Regulation (EU) No 575/2013 establishing the prudential requirements institutions need to respect.
- While Member States will have to transpose the directive into national law, the regulation is directly applicable, which means that it creates law that takes immediate effect in all Member States in the same way as a national instrument, without any further action on the part of the national authorities.

---

---

---

---

---

---

---

---



**The new legal framework of  
european banking**

- Directive 2013/36/EU constitute the essential instrument for the achievement of the internal market from the point of view of both the freedom of establishment and the freedom to provide financial services in the field of credit institutions.
- Regulation is a "Single Rule Book": For the first time a single set of harmonised prudential rules is created which banks throughout the EU must respect.

---

---

---

---

---

---

---

---

### The new legal framework of european banking

- Together, Directive 2013/36/EU and Regulation (EU) No 575/2013 are the legal framework governing the access to the activity, the supervisory framework and the prudential rules for credit institutions and investment firms (referred to collectively as "institutions"). The Regulation should therefore be read together with that Directive

---

---

---

---

---

---

---

---

#### Directive

(Strong links with national law, less prescriptive)

#### Regulation

(Detailed and highly prescriptive provisions establishing a single rule book)

Access to taking up/pursuit of business

Capital

Exercise of freedom of establishment and free movement of services

Liquidity

Prudential supervision

Leverage

Capital buffers

Counterparty credit risk

Corporate governance

Large exposures

Sanctions

Disclosure requirements

---

---

---

---

---

---

---

---

### Harmonisation

- It is appropriate to effect harmonisation which is necessary and sufficient to secure the mutual recognition of authorisation and of prudential supervision systems, making possible the granting of a single licence recognised throughout the Union and the application of the principle of home Member State prudential supervision.

---

---

---


---

---

---

---

---



**The legal definition of Credit Institution.** Regulation (EU) No 575/2013

"*credit institution*" means:

- an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account;
- The EU Law does not directly define the concept of bank
- EU Law impose on the Member States an obligation to introduce restrictions against natural and legal persons lacking the status of credit institutions to provide deposit services

---

---

---

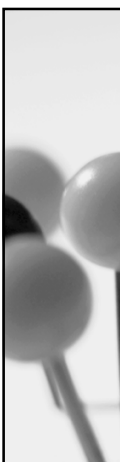
---

---

---

---

---



**Polish Banking Law act**

Article 2

- A bank shall constitute a legal person,
- established pursuant to the provisions of statute,
- operating on the basis of authorisations
- to perform banking operations
- that expose to risk funds which have been entrusted to the bank and which are in any way repayable

---

---

---

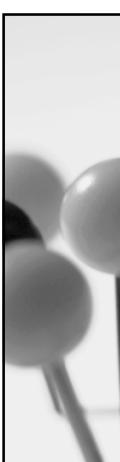
---

---

---

---

---



**Regulation No 575/2013. Definitions**

- "*authorisation*" an instrument issued in any form by the authorities by which the right to carry out the business is granted;
- "*competent authorities,*" means a public authority or body officially recognised by national law, which is empowered by national law to supervise institutions as part of the supervisory system in operation in the Member State concerned;

---

---

---


---

---

---

---

---



**Regulation No 575/2013.**  
**Definitions**

- "*branch*," means a place of business which forms a legally dependent part of an institution and which carries out directly all or some of the transactions inherent in the business of institutions;
- Host Member States shall not require authorisation or endowment capital for branches of credit institutions authorised in other Member States. The establishment and supervision of such branches shall be effected in accordance with the single licence rule.

---

---

---

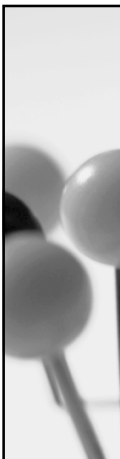
---

---

---

---

---



**Regulation No 575/2013.**  
**Definitions**

"*subsidiary*" means:

- a subsidiary undertaking is any undertaking over which a parent undertaking effectively exercises a dominant influence.

---

---

---

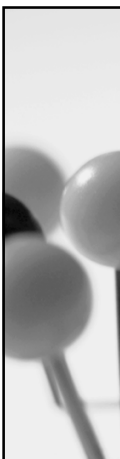
---

---

---

---

---



**Regulation No 575/2013**  
**Definitions**

- "*home Member State*" means the Member State in which an institution has been granted authorisation;
- "*host Member State*," means the Member State in which an institution has a branch or in which it provides services;

---

---

---


---

---

---

---

---



**Name of credit institution (art. 19 Directive)**

- For the purposes of exercising their activities, credit institutions may, notwithstanding any provisions in the host Member State concerning the use of the words "bank", "savings bank" or other banking names, use throughout the territory of the Union the same name that they use in the Member State in which their head office is situated. In the event of there being any danger of confusion, the host Member State may, for the purposes of clarification, require that the name be accompanied by certain explanatory particulars.

---

---

---

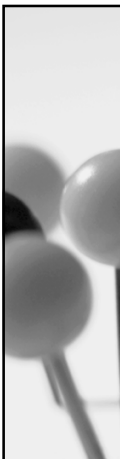
---

---

---

---

---



**Institutional forms of the credit institutions activity in host Member States**

The EU Law allows credit institutions to open:

- Subsidiaries*
- Branches*
- Representative offices*

in host Member States as well as outside the European Union.

Any of those situations is associated with different rights and obligations of credit institution.

---

---

---

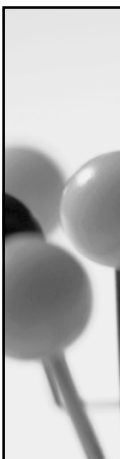
---

---

---

---

---



**Single Licence (passport) rule**

- Credit institutions authorised in their home Member States should be allowed to carry out throughout the Union any or all of the activities referred to in the list of activities subject to mutual recognition by or by providing services:
- by establishing branches or
- by providing services (directly from the home Member State across the borders)

without the need to grant another authorisation in the host Member State.

---

---

---


---

---

---

---

---



### Requirements for access to the taking up and pursuit of the business of credit institutions

- The EU law (Articles 8-20 of the Directive 2013/36/EC) comprises requirements in the procedure of granting authorisations for credit institutions.
- As those requirements are obligatory, they have to be included in national legislation concerning this subject (conditions for establishment of domestic banks).

---

---

---

---

---

---

---

---



### Case Study

The French Bank wants to establish in the territory of the other Member State its branch:

1. *Is it governed by the host or home Member State's Law?*
2. *Does the branch require authorisation from the host Member State?*
3. *Is there a need to equip the branch with separate initial capital?*

---

---

---

---

---

---

---

---



### Case study

The Spanish Bank wants to establish in the territory of the other Member State its subsidiary:

1. *Is it governed by the host or home Member State's Law?*
2. *Does the subsidiary require authorisation from the host Member State?*
3. *Is there a need to equip the subsidiary with separate initial capital?*

---

---

---

---

---

---

---

---