

European passport & home country control

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Screening process
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Background

- The 1992 Single Market programme
- Fragmented national financial legislation
- Options:
 - 1) Detailed EU-level harmonisation
 - 2) "Decentralised approach" based on
 - Directives with minimum requirements
 - European passport
 - Home country control
 - Mutual recognition

Key EU concepts

European passport:

- Authorisation to carry out business is only required in the home country. Cross-border branches and free provision of services are authorised under the same passport.

Home control:

- Branches are subject to the home state supervision regime (where the institution is authorised).

Mutual recognition:

- Institutions/services meeting the EU minimum requirements and conforming to one MS standard are accepted also in other Member States

Forms of cross-border operations

- **Cross-border provision of services**
- **Branch:** Legally dependent part of a credit institution, insurance company or an investment firm
- **Subsidiary:** Independent legal entity. Parent company and subsidiaries form a group.

Freedom to provide services

1. Undertaking informs Home State



2. Home Member State notifies Host Member State of :

- solvency certificate
- classes of risks for which the insurer is authorised
- nature of risks to be carried out free provision of services

Ex: insurance

Home State informs at the same time the undertaking



The insurer may start its activity from the date of being informed



In case Home State refuses to inform Host State



Home State must inform the insurer, who has right of appeal



Establishing a branch

Ex. insurance

1. Company notifies its intention to set up branch to Home Member State

2. Home Member State transmits project to Host Member State

3. Host Member State can indicate to Home State which general good requirements apply

4. Branch can start its activities

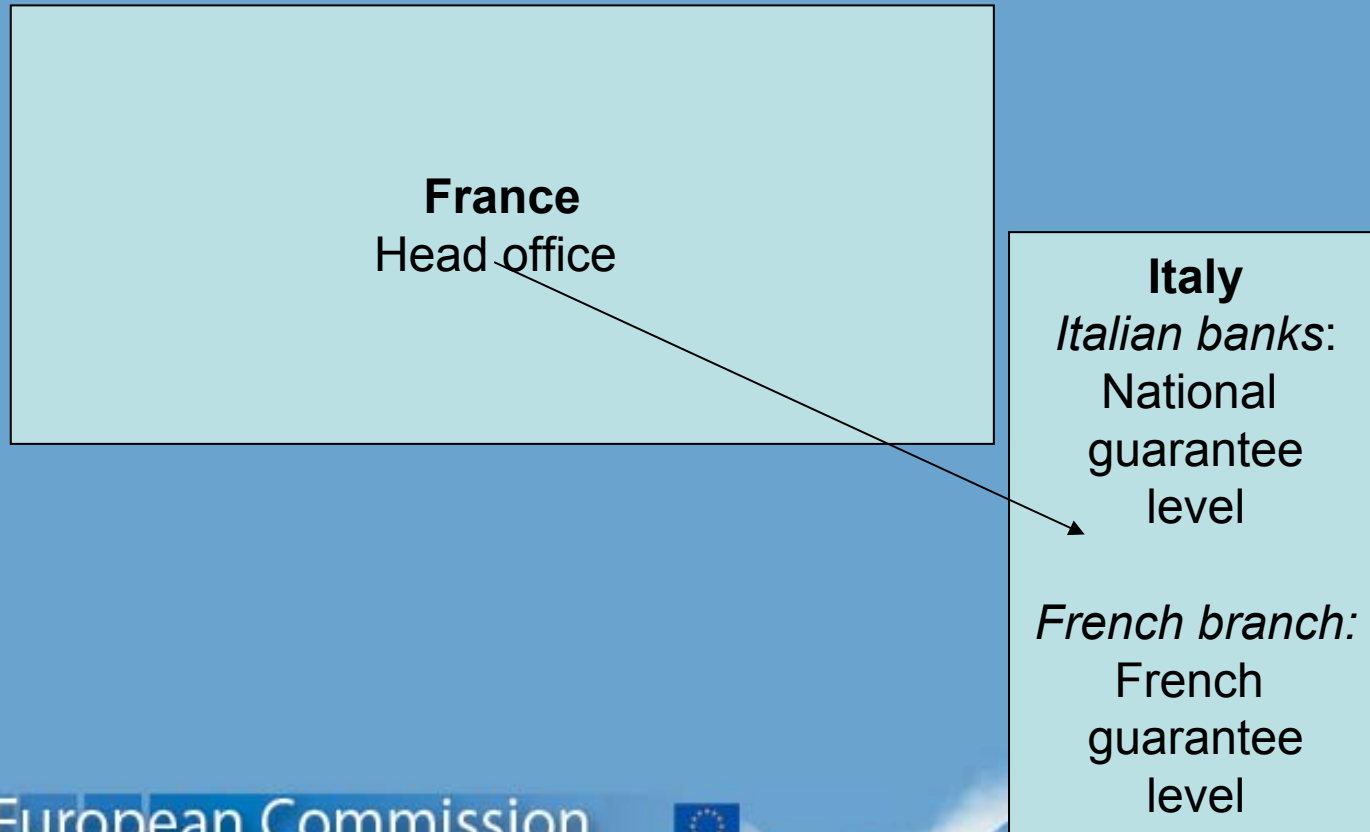
Insurer may appeal this decision

Home Member State can refuse to transmit project to Host Member State if doubts persist about:

- lack of adequate financial and administrative structure
- if managers and shareholders are not fit and proper, and qualified with a certain experience

Example: home control, mutual recognition

Example: Deposit guarantee directive



Home control – only a job for the home-supervisor?

Division of responsibilities:

- **Home country** is responsible for supervising financial soundness, solvency and notification on branching
- **Host country** is responsible for liquidity and statistics
- **Home and host country** are together responsible for supervising market risk and for exchanging information

Cross-border groups

Parent company and subsidiaries

Ground rules for groups

- Each subsidiary requires a separate authorisation (licence) in the MS where it is situated.
- Each subsidiary is considered as a separate legal entity, subject to the national law of the MS where it is situated.
- But group supervision is required by parent company supervisor.
- Supplementary group supervision for conglomerate groups – by coordinating supervisor