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STATUTORY INSTRUMENTS

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**1992 No. 3218**

**The Banking Coordination (Second  
Council Directive) Regulations 1992**

**PART II**

**RECOGNITION OF EUROPEAN INSTITUTIONS**

*Functions of Bank*

**Limitations on Bank's powers**

**11.**—(1) This regulation applies where it appears to the Bank that the situation as respects a European institution is such that the Bank's power—

- (a) to impose a prohibition or restriction on the institution; or
- (b) to vary otherwise than with the agreement of the institution any restriction imposed on the institution,

is exercisable by virtue of regulation 9(2)(a) above, or by virtue of any failure to comply with a requirement imposed under section 39 of the Banking Act (information and production of documents) for statistical purposes.

(2) The Bank shall require the institution in writing to remedy the situation.

(3) If the institution fails to comply with the requirement under paragraph (2) above within a reasonable time, the Bank shall give a notice to that effect to the relevant supervisory authority in the institution's home State requesting that authority—

- (a) to take all appropriate measures for the purpose of ensuring that the institution remedies the situation; and
- (b) to inform the Bank of the measures it proposes to take or has taken or the reasons for not taking any such measures.

(4) Subject to paragraph (5) below, the Bank shall not take any steps to impose a prohibition or restriction on a European institution, or to vary otherwise than with the agreement of a European institution any restriction imposed on the institution, unless it is satisfied—

- (a) that the relevant supervisory authority has failed or refused to take measures for the purpose mentioned in sub-paragraph (a) of paragraph (3) above; or
- (b) that the measures taken by that authority have proved inadequate for that purpose.

(5) Where the Bank considers that the prohibition, restriction or variation should be imposed as a matter of urgency, it may take steps to impose the prohibition, restriction or variation—

- (a) before complying with paragraphs (2) and (3) above; or
- (b) where it has complied with those paragraphs, without being satisfied as mentioned in paragraph (4) above;

but in such a case the Bank shall, at the earliest opportunity, inform the relevant supervisory authority in the institution's home State and the European Commission of the steps taken.

(6) In any case where—

- (a) by virtue of paragraph (5) above, the Bank has imposed a prohibition or restriction on a European institution, or varied a restriction imposed on such an institution, before complying with paragraphs (2) and (3) above or, as the case may be, before it is satisfied as mentioned in paragraph (4) above; and
- (b) the European Commission decides under the Second Council Directive that the Bank must withdraw or vary the prohibition, restriction or variation,

the Bank shall in accordance with the decision withdraw or vary the prohibition, restriction or variation.

(7) In any case where—

- (a) the Bank has given notice to a European institution under paragraph 2 of Schedule 3 to these Regulations of a proposal to impose a prohibition or restriction or vary a restriction;
- (b) the prohibition, restriction or variation has not taken effect; and
- (c) the European Commission decides under the Second Council Directive that the Bank must withdraw or vary the notice,

the Bank shall in accordance with the decision withdraw or vary the notice.

(8) This regulation shall not apply—

- (a) as respects the imposition of a restriction in pursuance of regulation 8(2) above; or
- (b) in any case where regulation 12 below applies.