
STATUTORY INSTRUMENTS

1995 No. 1442

The Credit Institutions (Protection of Depositors) Regulations 1995

Part II

Participation in host State schemes

Chapter I

Participation in UK scheme by EEA institution

Main provisions

Eligibility to participate in scheme

3.—(1) An EEA institution which accepts or proposes to accept deposits through offices in the United Kingdom shall be eligible to participate in a UK scheme if the Deposit Protection Board (“the Board”) determines under this regulation, on an application made by the institution, that it is so eligible; and an application under this paragraph may state a preference for one or other of the UK schemes.

(2) The Board shall not make a determination under this regulation unless, after consultation with such of the relevant authorities (if any) as it considers appropriate, it is satisfied that—

- (a) the scope of the protection afforded to depositors by the institution’s home State scheme; or
- (b) the level of the protection so afforded,

is less than that afforded to depositors by the UK scheme specified in the determination.

(3) Whether or not the Board is satisfied as mentioned in paragraph (2) above, it shall decide which of the UK schemes appears to be the more appropriate for the institution, having regard to whether the institution’s characteristics correspond more closely to those of a UK institution or to those of a building society.

(4) The Board shall not under paragraph (3) above—

- (a) decide in favour of the investor protection scheme except with the consent of the Investor Protection Board; or
- (b) decide in favour of the deposit protection scheme, in a case where the application stated a preference for the investor protection scheme, except after consulting with that Board.

(5) Written notice of a decision of the Board under paragraph (2) or (3) above, stating the reasons for it, shall be given to the institution—

- (a) within 90 days after the day on which the institution’s application is received by the Board; or
- (b) within that period and such additional period, not exceeding 30 days, as the Bank may in exceptional circumstances allow.

- (6) In this regulation and regulation 6 below “the relevant authorities” means—
- the Bank, the Commission and the supervisory authority in the institution’s home State; and
 - the Investor Protection Board and the authority responsible for the institution’s home State scheme.

Participation in scheme

4.—(1) An EEA institution which is eligible to participate in the deposit protection scheme by virtue of a determination under regulation 3 above shall cease to be so eligible unless, within two months after the date of the determination—

- it commences its participation in that scheme by paying to the Deposit Protection Board the amount which is specified in the determination in accordance with paragraph (2) below; or
 - in the case of an institution which was participating in that scheme immediately before the commencement date and whose application under paragraph (1) of that regulation was made within six months of that date, it resumes its participation in that scheme by giving notice to that Board of its decision to do so.
- (2) Where—

- a determination under regulation 3 above specifies the deposit protection scheme; and
- the institution is not such an institution as is mentioned in paragraph (1)(b) above,

the determination shall also specify the amount which the Deposit Protection Board considers would be determined in accordance with subsection (2) or (3) of section 53 of the 1987 Act (initial contributions) if the institution participated in the scheme.

(3) An EEA institution which is eligible to participate in the investor protection scheme by virtue of a determination under regulation 3 above shall cease to be so eligible unless, within two months after date of the determination, it commences its participation in that scheme by giving to the Investor Protection Board notice of its decision to do so.

(4) No initial contribution shall be levied under section 53 of the 1987 Act from an EEA institution which commences or resumes its participation in the deposit protection scheme in accordance with paragraph (1) above.

(5) The amount payable under sub-paragraph (a) of paragraph (1) above by an EEA institution which has withdrawn under regulation 5 below, or has been excluded under regulation 6 below, from participation in the deposit protection scheme shall be reduced by the aggregate of—

- any amount previously paid by the institution under that sub-paragraph;
- so much of any further contribution levied on the institution under section 54 of the 1987 Act as was attributable to an order under subsection (2) of that section; and
- if any previous participation in that scheme was resumed in accordance with sub-paragraph (b) of that paragraph, the amount of the initial contribution levied on the institution under section 53 of that Act.

Withdrawal from scheme

5.—(1) An EEA institution which is participating in a UK scheme may withdraw from participation in that scheme by giving to the relevant Board not less than six months notice of its intention to do so.

- (2) In this regulation and regulation 7 below “the relevant Board”—

- in relation to the deposit protection scheme, means the Deposit Protection Board; and

- (b) in relation to the investor protection scheme, means the Investor Protection Board.

Exclusion where institution no longer eligible

6.—(1) An EEA institution which is participating in a UK scheme shall be excluded from participation in that scheme if the Deposit Protection Board (“the Board”) determines under this regulation that it is no longer eligible to participate in that scheme.

(2) The Board shall not make a determination under this regulation unless, after consultation with such of the relevant authorities (if any) as it considers appropriate, it is satisfied that—

- (a) the scope of the protection afforded to depositors by the institution’s home State scheme; and
- (b) the level of the protection so afforded,

are each not less than that afforded to depositors by the UK scheme in which the institution is participating.

(3) Written notice of a decision of the Board under paragraph (2) above, stating the reasons for it, shall be given to the institution.

(4) An exclusion under this regulation shall not have effect—

- (a) until the time for appealing under regulation 8 below against the Board’s decision under paragraph (2) above has expired; or
- (b) if an appeal is made under that regulation, unless and until that decision is confirmed by the Chancellor of the Exchequer.

Exclusion where institution in default

7.—(1) This regulation applies where an EEA institution which is participating in a UK scheme (“the scheme”) is in default by reason of—

- (a) any failure to pay in whole or in part any contribution due from it under the scheme; or
- (b) any failure to produce any documents or provide any information to the relevant Board which it is required to produce or provide under section 65 of the 1987 Act or, as the case may be, section 29A of the 1986 Act.

(2) Where this regulation applies the relevant Board shall give notice of the default to the supervisory authority in the institution’s home State (“the supervisory authority”) requesting that authority—

- (a) to take all appropriate measures for the purpose of ensuring that the default is remedied; and
- (b) to inform the Board of the measures which it proposes to take or has taken or of the reasons for not taking any such measures.

(3) If the relevant Board is satisfied either—

- (a) that the supervisory authority has failed or refused to take measures for the purpose mentioned in paragraph (2)(a) above; or
- (b) that the measures taken by the authority have proved inadequate for that purpose,

it may give notice to the institution that if the default is not remedied before the end of the period of 12 months beginning with the date of the notice, the institution may be excluded from participation in the scheme.

(4) If the default has not been remedied before the end of the period of 12 months referred to in paragraph (3) above the relevant Board may, with the consent of the supervisory authority, by notice to the institution exclude the institution from participation in the scheme.

(5) Nothing in paragraph (4) above shall prohibit recovery by the relevant Board of any unpaid amount.

Appeals against decisions of Board

8.—(1) An EEA institution which is aggrieved by a decision under regulation 3(2) or (3), 6(2) or 7(3) above may, within 28 days after the day on which it received notice of the decision, appeal against the decision to the Chancellor of the Exchequer.

(2) An appeal under this regulation shall be made by sending to the Chancellor of the Exchequer (with copies to the relevant Board)—

- (a) a notice of appeal, including a statement of the grounds of appeal;
- (b) written representations in support of those grounds; and
- (c) any documents that may be relevant for the purposes of the appeal;

and the procedure for determining such an appeal shall be as the Chancellor of the Exchequer may direct.

(3) On such an appeal the Chancellor of the Exchequer may confirm or vary the decision which is the subject of the appeal.

(4) Written notice of the Chancellor of the Exchequer's decision, stating the reasons for it, shall be given to the appellant and to the relevant Board; and, unless the Chancellor of the Exchequer otherwise directs, the decision shall take effect when the notice is so given.

(5) In this regulation “the relevant Board”—

- (a) in relation to a decision under regulation 3(2) or 6(2) above, means the Deposit Protection Board;
- (b) in relation to a decision under regulation 3(3) above, means the Deposit Protection Board and the Investor Protection board; and
- (c) in relation to a decision under regulation 7(3) above, has the same meaning as in that regulation.

Supplementary provisions

Duty of institution to notify withdrawal or exclusion

9.—(1) Where an EEA institution withdraws or is excluded from participation in a UK scheme, it shall as soon as practicable take all such steps as may be necessary to bring the withdrawal or exclusion to the notice of depositors whose deposits were made with United Kingdom offices of the institution.

(2) Where it appears to the Bank that an EEA institution has failed to comply with paragraph (1) above, the Bank shall require the institution by notice in writing to take all such steps as appear to it necessary to comply with that paragraph and are specified in the notice.

(3) If an EEA institution fails to comply with a requirement under paragraph (2) above within a reasonable time, the Bank shall give notice to that effect to the 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 complies with that requirement; and
- (b) to inform the Bank of the measures which it proposes to take or has taken or of the reasons for not taking any such measures.

Duty of Board to consult with home State authority

10.—(1) As soon as practicable after an EEA institution commences or resumes its participation in a UK scheme, the relevant Board shall, if it has not already done so in connection with another such institution’s participation in the UK scheme—

- (a) consult with the authority having responsibility for the institution’s home State scheme; and
 - (b) come to an agreement with that authority as to the rules and procedures to be adopted for determining, in the event of such institutions becoming insolvent (within the meaning of the relevant Part), the respective amounts of compensation which, after any deductions by way of set-off, would be payable under that scheme and the UK scheme.
- (2) As soon as practicable after an EEA institution which is participating in a UK scheme becomes insolvent (within the meaning of the relevant Part), the relevant Board shall—
- (a) consult with the authority having responsibility for the institution’s home State scheme; and
 - (b) come to an agreement with that authority as to the respective amounts of compensation which, after any deductions by way of set-off, are payable under that scheme and the UK scheme.
- (3) In this regulation “the relevant Board” and “the relevant Part” mean respectively—
- (a) in relation to the deposit protection scheme, the Deposit Protection Board and Part II of the 1987 Act;
 - (b) in relation to the investor protection scheme, the Investor Protection Board and Part IV of the 1986 Act.
- (4) Any reference in this regulation to an EEA institution includes a reference to an institution which was formerly an EEA institution and continues to have a liability in respect of any deposit for which it had a liability at a time when it was an EEA institution.

Power of Board to make agency and information agreements

11.—(1) Where an EEA institution commences or resumes its participation in a UK scheme, the relevant Board may enter into an agency or information agreement with the authority responsible for the institution’s home State scheme.

(2) In this regulation—

“agency agreement” means an agreement between the relevant Board and the authority responsible for the institution’s home State scheme under which either agrees, whether or not for a consideration, to make on the other’s behalf any payments falling to be made under the scheme for which the other is responsible;

“information agreement” means an agreement between the relevant Board and the authority responsible for the institution’s home State scheme under which either agrees, whether or not for a consideration, to disclose to the other any information in its possession which would or might assist the other to discharge its functions;

“the relevant Board” has the same meaning as in regulation 10 above.

Duty of Board to maintain list of participating EEA institutions

12. The Deposit Protection Board and the Investor Protection Board shall each compile and maintain a list of the EEA institutions which are participating in the UK scheme for which it is the responsible authority.

Chapter II

Participation in EEA scheme by UK institution or building society

Duty of institution or society to notify withdrawal or exclusion

13. Where a UK institution or building society withdraws or is excluded from a scheme for the protection of depositors which is in force in an EEA State other than the United Kingdom, it shall as soon as practicable take all such steps as may be necessary to bring the withdrawal or exclusion to the notice of depositors whose deposits were made with offices of the institution or society in that State.

Liability of institution or society in respect of payments under host State scheme

14.—(1) Where a UK institution or building society which is participating in a host State scheme becomes insolvent (within the meaning of the relevant Part), the relevant enactment shall have effect as if—

- (a) any reference to the relevant Board included a reference to the authority responsible for the host State scheme; and
- (b) any reference to the making of a payment under any provision of the relevant Part included a reference to the making of a payment under that scheme.

(2) In this regulation “the relevant Board”, “the relevant enactment” and “the relevant Part” mean respectively—

- (a) in relation to a UK institution, the Deposit Protection Board, section 62 of the 1987 Act and Part II of that Act;
- (b) in relation to a building society, the Investor Protection Board, section 28 of the 1986 Act and Part IV of that Act.

(3) Any reference in this regulation to a UK institution includes a reference to an institution which was formerly a UK institution and continues to have a liability in respect of any deposit for which it had a liability at a time when it was a UK institution.

Duty of Board to consult with host State authority

15.—(1) As soon as practicable after a UK institution or building society commences or resumes its participation in a host State scheme, the relevant Board shall, if it has not already done so in connection with another such institution’s or society’s participation in that scheme—

- (a) consult with the authority having responsibility for that scheme; and
- (b) come to an agreement with that authority as to the rules and procedures to be adopted for determining, in the event of such institutions or societies becoming insolvent (with the meaning of the relevant Part), the respective amounts of compensation which, after any deductions by way of set-off, would be payable under that scheme and the relevant UK scheme.

(2) As soon as practicable after a UK institution or building society which is participating in a host State scheme becomes insolvent (within the meaning of the relevant Part), the relevant Board shall—

- (a) consult with the authority having responsibility for that scheme; and
- (b) come to an agreement with that authority as to the respective amounts of compensation which, after any deductions by way of set-off, are payable under that scheme and the relevant UK scheme.

(3) In this regulation “the relevant Board”, “the relevant Part” and “the relevant UK scheme” mean respectively—

- (a) in relation to a UK institution, the Deposit Protection Board, Part II of the 1987 Act and the deposit protection scheme;
 - (b) in relation to a building society, the Investor Protection Board, Part IV of the 1986 Act and the investor protection scheme.
- (4) Any reference in this regulation to a UK institution includes a reference to an institution which was formerly a UK institution and continues to have a liability in respect of any deposit for which it had a liability at a time when it was a UK institution.

Power of Board to make agency and information agreements

16.—(1) Where a UK institution or building society commences or resumes its participation in a host State scheme, the relevant Board may enter into an agency or information agreement with the authority responsible for that scheme.

(2) In this regulation—

“agency agreement” means an agreement between the relevant Board and the authority responsible for the host State scheme under which either one agrees, whether or not for a consideration, to make on the other’s behalf any payments falling to be made under the scheme for which the other is responsible;

“information agreement” means an agreement between the relevant Board and the authority responsible for the host State scheme under which either agrees, whether or not for a consideration, to disclose to the other any information in its possession which would or might assist the other to discharge its functions;

“the relevant Board” has the same meaning as in regulation 15 above.

Duty of Bank or Commission to declare that deposits are no longer available

17.—(1) Where a UK institution or building society which is or has been a participating institution has become insolvent, it shall be the duty of the relevant authority—

- (a) to make a declaration that deposits held by the institution or society are no longer available; and
- (b) to send a copy of the declaration to the authority responsible for each scheme which is or has been a host State scheme in relation to the institution or society.

(2) Where a UK institution or building society which is or has been a participating institution has ceased to be insolvent, it shall be the duty of the relevant authority—

- (a) to withdraw the declaration made by it under paragraph (1) above; and
- (b) to notify the withdrawal to each authority to which it has sent a copy of that declaration.

(3) In this regulation—

- (a) references to a participating institution are references to an institution which is participating in a host State scheme; and
- (b) references to becoming or ceasing to be insolvent shall be construed in accordance with the relevant enactment.

(4) In this regulation “the relevant authority” and “the relevant enactment” mean respectively—

- (a) in relation to a UK institution, the Bank and section 59 of the 1987 Act;
- (b) in relation to a building society, the Commission and section 25A of the 1986 Act.

Powers of authority responsible for host State scheme

18.—(1) Where a UK institution or building society which is participating in a host State scheme becomes insolvent (within the meaning of the relevant Part), the relevant enactments (which enable the relevant Board to obtain information) shall have effect as if—

- (a) any reference to the relevant Board included a reference to the authority having responsibility for the host State scheme;
- (b) any reference to the relevant Part included a reference to the corresponding provision of the law of the EEA State in which the host State scheme is in force; and
- (c) any reference (however expressed) to a deposit protected by, or to a payment under, the relevant UK scheme included a reference to a deposit protected by, or to a payment under, the host State scheme.

(2) In this regulation “the relevant Board”, “the relevant enactments”, “the relevant Part” and “the relevant UK scheme” mean respectively—

- (a) in relation to a UK institution, the Deposit Protection Board, section 58(8) and (9) and section 65(3) and (4) of the 1987 Act, Part II of that Act and the deposit protection scheme;
- (b) in relation to a building society, the Investor Protection Board, section 29A(3) and (4) of the 1986 Act, Part IV of that Act and the investor protection scheme.

(3) Any reference in this regulation to a UK institution includes a reference to an institution which was formerly a UK institution and continues to have a liability in respect of any deposit for which it had a liability at a time when it was a UK institution.

(4) Nothing in section 65(3) of the 1987 Act (as modified by this regulation), or section 29A(3) of the 1986 Act (as so modified), shall entitle an authority having responsibility for a host State scheme to require information to be provided or furnished, or documents, books or papers to be produced, at a place outside the United Kingdom.

Chapter III

Non-participation in deposit protection scheme by non-EEA institution

Main provisions

Eligibility not to participate in scheme

19.—(1) A non-EEA institution shall be eligible not to participate in the deposit protection scheme (“the scheme”) if the Deposit Protection Board (“the Board”) determines under this regulation, on an application made by the institution, that it is so eligible.

(2) The Board shall not make such a determination under this regulation unless after consultation with such of the relevant authorities (if any) as it considers appropriate, it is satisfied that—

- (a) the scope of the protection afforded by the institution’s home State scheme to depositors with United Kingdom offices; and
- (b) the level of the protection so afforded,

are each not less than that afforded to such depositors by the scheme.

(3) Written notice of the Board’s decision under paragraph (2) above, stating the reasons for it, shall be given to the institution—

- (a) within 90 days after the day on which the institution’s application is received by the Board; or
- (b) within that period and such additional period, not exceeding 30 days, as the Bank may in exceptional circumstances allow.

- (4) In this regulation and regulation 21 below “the relevant authorities” means—
(a) the Bank and the supervisory authority in the institution’s home State; and
(b) the authority responsible for the institution’s home State scheme.

Election not to participate in scheme

20. A non-EEA institution which is eligible not to participate in the deposit protection scheme by virtue of a determination under regulation 19 above shall cease to be so eligible unless, within two months after the date of the determination, it elects not to participate in that scheme by giving notice of its election to the Deposit Protection Board.

Election to cease to have effect where institution no longer eligible

21.—(1) An election by a non-EEA institution not to participate in the deposit protection scheme (“the scheme”) shall cease to have effect if the deposit Protection Board (“the Board”) determines under this regulation that it is no longer eligible not to participate in the scheme.

(2) The Board shall not make a determination under this regulation unless, after consultation with such of the relevant authorities (if any) as it considers appropriate, it is satisfied that—

- (a) the scope of the protection afforded to depositors by the institution’s home State scheme; or
(b) the level of the protection so afforded,

is less than that afforded to depositors by the scheme.

(3) Written notice of a decision of the Board under paragraph (2) above, stating the reasons for it, shall be given to the institution.

(4) An election shall not cease to have effect by virtue of this regulation—

- (a) until the time for appealing under regulation 22 below against the Board’s decision under paragraph (2) above has expired; or
(b) if an appeal is made under that regulation, unless and until that decision is confirmed by the Chancellor of the Exchequer.

(5) Where an election ceases to have effect by virtue of this regulation, the amount of the initial contribution levied on the institution under section 53 of the 1987 Act shall be reduced by the aggregate of—

- (a) the amount of any previous initial contribution levied on the institution under that section; and
(b) so much of any further contribution levied on the institution under section 54 of that Act as was attributable to an order under subsection (2) of that section.

Appeals against decisions of Board

22.—(1) A non-EEA institution which is aggrieved by a decision under regulation 19(2) or 21(2) above may, within 28 days after the day on which it received notice of the decision, appeal against the decision to the Chancellor of the Exchequer.

(2) An appeal under this regulation shall be made by sending to the Chancellor of the Exchequer (with copies to the Deposit Protection Board)—

- (a) a notice of appeal, including a statement of the grounds of appeal;
(b) written representations in support of those grounds; and
(c) any documents that may be relevant for the purposes of the appeal;

and the procedure for determining such an appeal shall be as the Chancellor of the Exchequer may direct.

(3) On such an appeal the Chancellor of the Exchequer may confirm or vary the decision which is the subject of the appeal.

(4) Written notice of the Chancellor of the Exchequer's decision, stating the reasons for it, shall be given to the appellant and to the Deposit Protection Board; and, unless the Chancellor of the Exchequer otherwise directs, the decision shall take effect when the notice is so given.

Supplementary provisions

Duty of institution to notify election not to participate

23. Where a non-EEA institution elects not to participate in the deposit protection scheme, it shall as soon as practicable take all such steps as may be necessary to bring the election to the notice of depositors whose deposits were made with United Kingdom offices of the institution.

Duty of Board to maintain list of participating non-EEA institutions

24. The Deposit Protection Board shall compile and maintain a list of the non-EEA institutions which are participating in the deposit protection scheme.