
STATUTORY INSTRUMENTS

1996 No. 1669

**The Financial Institutions (Prudential
Supervision) Regulations 1996**

PART II

BANKING INSTITUTIONS

Refusal and revocation of authorisation by Bank

3.—(1) After subsection (3) of section 9 of the Banking Act (grant and refusal of authorisation) there shall be inserted the following subsection—

“(3A) The Bank shall refuse an application made by a credit institution if it appears to the Bank that—

- (a) the institution is an undertaking which is closely linked with any person; and
- (b) the institution’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Bank of its supervisory functions in relation to the institution;

and in this subsection and subsection (1B) of section 11 below ‘non-EEA laws’ means laws of a country or territory which is not a contracting party to the agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993, and “non-EEA administrative provisions” shall be construed accordingly.”

(2) After subsection (1A) of section 11 of that Act (revocation of authorisation) there shall be inserted the following subsection—

“(1B) The Bank may revoke the authorisation of a credit institution if it appears to the Bank that—

- (a) the institution is an undertaking which is closely linked with any person; and
- (b) the institution’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as to prevent the effective exercise by the Bank of its supervisory functions in relation to the institution.”

Communication by auditor etc. with Bank

4.—(1) In subsection (1) of section 47 of the Banking Act (communication by auditor etc. with Bank), after paragraph (b) there shall be inserted the words “or

- (c) an auditor of a body with which an authorised institution which is a credit institution is closely linked by control who is also either—
 - (i) an auditor of the institution; or

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(ii) a person appointed to make a report under section 8(5) or 39(1)(b) above in respect of the institution,”

(2) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) In relation to an auditor of a body with which an authorised institution which is a credit institution is closely linked by control, this section applies to any matter of which he becomes aware in his capacity as auditor of the body and which relates to the business or affairs of the institution.”

Disclosure of information by Bank

5.—(1) In subsection (1) of section 83 of the Banking Act (disclosure for facilitating discharge of functions of Bank)—

- (a) the word “or” immediately following paragraph (b) shall be omitted; and
- (b) after paragraph (c) there shall be inserted the words “or
 - (d) its functions as a supervisor of systems for the transfer of funds between credit institutions and their customers.”

(2) In the Table in subsection (1) of section 84 of that Act (disclosure for facilitating discharge of functions by other supervisory authorities)—

- (a) in entry 11, in the first column, the words “recognised clearing house” shall be omitted and, in the second column, for the words “exchange or clearing house” there shall be substituted the words “or exchange”;
- (b) after entry 11 there shall be inserted the following entries—

<p>11A A recognised clearing house (within the meaning of the Financial Services Act 1986).</p>	<p>Functions in its capacity as a clearing house under the Financial Services Act 1986 so far as they are exercisable in relation to defaults or potential defaults by market participants.</p>
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<p>11B A person approved under the Uncertificated Securities Regulations 1995 as an operator of a relevant system (within the meaning of those Regulations).</p>	<p>Functions as a person so approved so far as they are exercisable in relation to defaults or potential defaults by market participants.</p>
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<p>11C A recognised supervisory body (within the meaning of Part II of the Companies Act 1989).</p>	<p>Functions in its capacity as such a body under that Part or functions in relation to disciplinary proceedings against auditors.”</p>
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- (c) in entry 12, at the end of the second column there shall be inserted the words “or functions in relation to disciplinary proceedings against insolvency practitioners (within the meaning of that Act)”;
- (d) in entry 19, at the end of the second column there shall be inserted the words “or functions in relation to disciplinary proceedings against insolvency practitioners (within the meaning of that Order)”;
- (e) after that entry there shall be inserted the following entry—

<p>20 A recognised supervisory body (within the meaning of Part III of the Companies (Northern Ireland) Order 1990).</p>	<p>Functions in its capacity as such a body under that Part, or functions in relation to disciplinary proceedings against auditors.”</p>
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(3) In subsection (6) of that section, the word “or” immediately following paragraph (b) shall be omitted and after paragraph (c) there shall be inserted the words “or

(d) in the case of a supervisory authority in another EEA State, its functions as a supervisor of systems for the transfer of funds between credit institutions and their customers.”

(4) At the beginning of subsection (10) of that section there shall be inserted the words “Subject to subsection (11) below,” and after that subsection there shall be inserted the following subsections—

“(11) Subsection (10) above shall not apply in relation to references to enabling or assisting the discharge or exercise of the following functions, namely—

- (a) functions of the Secretary of State under Part XIV of the Companies Act 1985, Part XIII of the Insolvency Act 1986 or Part II of the Companies Act 1989 or, so far as relating to the breach of any law relating to companies, under section 83 of the Companies Act 1989;
- (b) functions of an inspector under Part XIV of the Companies Act 1985 or, so far as relating to offences involving securities of a company, under section 177 of the Financial Services Act 1986;
- (b) functions of a person authorised to exercise powers under section 84 of the Companies Act 1989, so far as relating to the breach of any law relating to companies;
- (d) functions of a recognised clearing house (within the meaning of the Financial Services Act 1986);
- (e) functions of a person approved under the Uncertificated Securities Regulations 1995 as an operator of a relevant system (within the meaning of those Regulations);
- (f) functions of a recognised supervisory body (within the meaning of Part II of the Companies Act 1989);
- (g) functions of a recognised professional body (within the meaning of section 391 of the Insolvency Act 1986);
- (h) functions of the Department of Economic Development in Northern Ireland under Part XV of the Companies (Northern Ireland) Order 1986, Part XII of the Insolvency (Northern Ireland) Order 1989 or Part III of the Companies (Northern Ireland) Order 1990;
- (i) functions of an inspector under Part XV of the Companies (Northern Ireland) Order 1986;
- (j) functions of a recognised professional body (within the meaning of Article 350 of the Insolvency (Northern Ireland) Order 1989);
- (k) functions of a recognised supervisory body (within the meaning of Part III of the Companies (Northern Ireland) Order 1990);
- (l) functions of a supervisory authority in another EEA State in its capacity as a supervisor of systems for the transfer of funds between credit institutions and their customers.

(12) In this section ‘another EEA State’ means a State other than the United Kingdom which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.”

(5) After subsection (4) of section 86 of the Banking Act (information supplied to Bank by relevant overseas authority etc.) there shall be inserted the following subsection—

“(4A) Before the Bank discloses information to any person under subsection (3) above, it shall notify the relevant supervisory authority which supplied the information of the name and responsibilities of that person.”

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- (6) In relation to information relating to the business or other affairs of institutions which—
- (a) are authorised institutions within the meaning of the Banking Act; but
 - (b) are not credit institutions within the meaning of that Act,
- sections 83, 84 and 86 of that Act shall have effect without the amendments made by this regulation.