
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations give effect to the Second Council Directive [89/646/EEC](#) on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (OJNo. L386, 30.12.89, p.1), and to certain provisions of Council Directive [77/780/EEC](#) (OJ No. L322, 17.12.77, p.30), which is amended by the Second Council Directive. They also give effect to the Council Directive [92/30/EEC](#) on the supervision of credit institutions on a consolidated basis (OJ No. L110, 28.4.92, p.52). The Regulations come into force on 1st January 1993.

Part I of the Regulations defines various words and expressions for the purposes of the Regulations.

Part II of the Regulations makes provision for the recognition of certain credit institutions authorised in other member States, and of certain subsidiaries of such institutions, for the purposes of carrying on listed activities in the United Kingdom. “Listed activities” are the activities which are set out in Schedule 1. Subject to compliance with the notification requirements contained in Schedule 2, nothing in certain specified provisions of the Banking Act 1987 (c. 22), the Financial Services Act 1986 (c. 60), the Consumer Credit Act 1974 (c. 39) and the Insurance Companies Act 1982 (c. 50) is to prevent a “European institution” (regulation 3) from carrying on in the United Kingdom, whether by the provision of services or the establishment of a branch, any listed activity which it is authorised or permitted to carry on in its “home state” (regulation 5). Certain offences in connection with carrying on listed activities and the establishment of branches are created by regulations 5 and 6. There are requirements concerning changes to the “requisite details” of a branch of a European institution (regulation 6(2)). Prohibitions and restrictions on a European institution in relation to carrying on listed activities may be imposed by the Bank of England (regulations 8 to 12), the Securities and Investments Board (regulations 15 to 17) and the Director General of Fair Trading (regulations 18 and 19), in the circumstances and in accordance with the conditions set out in the Regulations. Schedules 3, 4 and 5 make supplemental provision in connection with such prohibitions and restrictions imposed by the Bank, the Board and the Director General respectively. The Bank (regulation 8) and the Board (regulation 14) also have certain duties to prepare for supervision when a European institution is establishing a branch in the United Kingdom pursuant to the Regulations.

Part III of the Regulations makes provision for the carrying on of listed activities in other member States by “UK Institutions”, which means certain credit institutions (“UK authorised institutions”) which are authorised under the Banking Act or Building Societies Act, and certain subsidiaries (“UK subsidiaries”) of such institutions (regulation 20). For the purposes of the Regulations, a UK authorised institution is authorised to carry on in the UK any listed activity which it is lawful for it to carry on in the UK; a UK subsidiary is permitted to carry on in the UK any listed activity which it is lawful for it to carry on, and it is carrying on in the UK (regulation 21). Subject to certain qualifications relating to UK subsidiaries, a UK institution is not to carry on in another member State by the provision of services any listed activity which it is authorised or permitted to carry on in the UK, or establish a branch for the purpose of carrying on such an activity, unless the notification requirements of Schedule 6 have been complied with (regulation 22). There are also requirements concerning changes to the “requisite details” of a branch of a UK institution established in another member State. The “UK authority” (regulation 20(7))—which will be the Bank of England or the Building Societies Commission—is given powers to impose a restriction on the carrying on in the UK of any listed activities by a UK subsidiary (regulations 23 and 24), and Schedule 7 makes supplemental provision in that regard.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part IV of the Regulations amends the Banking Act 1987 in relation to credit institutions authorised by the Bank of England. The principal changes relate to applications for authorisation (regulation 25), “own funds” and initial capital requirements for authorisation (regulation 27), powers of revocation, including powers in relation to the carrying on of listed activities without having given the Bank prior notice (regulation 28), powers of revocation following information from a supervisory authority in another member State (regulation 29), implementation of certain EC decisions relating to third countries (regulation 32), holdings in credit institutions (regulations 31, and 33 to 35), information and investigations (regulations 36 and 37), and disclosure of information (regulations 38 to 42). Further amendments to the Banking Act 1987 are made by Schedule 8, in particular in relation to European institutions.

Part V of the Regulations amends the Financial Services Act 1986. The principal changes relate to membership of self-regulating organisations (regulation 48), applications for, and grant and refusal of, authorisation under that Act (regulations 49 and 50), and reciprocal facilities for banking business (regulation 53). Further amendments to the Financial Services Act 1986 are made by Schedule 9, in particular in relation to European institutions.

Part VI of the Regulations amends the Consumer Credit Act 1974. The principal changes relate to the effect of standard licences (regulation 57), the grant of standard licences (regulation 58), conduct of business (regulation 59), disclosure of information (regulation 62), and modification of subordinate legislation in relation to European institutions (regulation 63).

Part VII of the Regulations amends the Insurance Companies Act 1982, principally in relation to the withdrawal of authorisation under that Act of a European subsidiary (regulation 64), and the application of Part II of the Act to a European institution (regulation 65).

Part VIII of the Regulations amends the Building Societies Act 1986. The principal changes relate to the establishment of building societies (regulation 67), minimum capital requirements (regulation 68), powers in respect of “qualifying holdings” in building societies (regulations 68 to 70 and 72), revocation powers, including powers in relation to the carrying on of listed activities without having given the Building Societies Commission prior notice (regulation 71), powers of revocation following information from a supervisory authority in another member State (regulation 74), disclosure of information (regulations 76 and 77), and accounting records and systems of business control (regulation 78).

Schedule 2 sets out procedural requirements as respects European institutions relating to the carrying on in the UK of listed activities by the provision of services, the establishment of a branch, and changes to the requisite details of a branch. It also specifies the procedure whereby cancellation of compliance with notification requirements by a European subsidiary may be effected.

Schedule 6 sets out procedural requirements as respects UK institutions relating to the carrying on in another member State of listed activities by the provision of services, the establishment of a branch, and changes to the requisite details of a branch. It also specifies the procedure whereby cancellation of compliance with notification requirements by a UK subsidiary may be effected.

Schedule 10 contains minor and consequential amendments to primary and secondary legislation.

Schedule 11 contains transitional provisions and savings, making further amendments to the Banking Act 1987, the Financial Services Act 1986, and the Building Societies Act 1986.