
STATUTORY INSTRUMENTS

1992 No. 3218

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

PART II

RECOGNITION OF EUROPEAN INSTITUTIONS

Preliminary

European institutions

3.—(1) In these Regulations “European institution” means a European authorised institution or a European subsidiary.

(2) A credit institution is a European authorised institution for the purposes of these Regulations if—

- (a) it is incorporated in or formed under the law of another member State;
- (b) its principal place of business is in that State;
- (c) it is for the time being authorised to act as a credit institution by the relevant supervisory authority in that State; and
- (d) the requirements of paragraph 1 of Schedule 2 to these Regulations have been complied with in relation to its carrying on of an activity or its establishment of a branch.

(3) A financial institution is a European subsidiary for the purposes of these Regulations if—

- (a) it is incorporated in or formed under the law of another member State;
- (b) it is a 90 per cent. subsidiary undertaking of a credit institution which—
 - (i) is incorporated in or formed under the law of that State; and
 - (ii) is a European authorised institution or a quasi-European authorised institution;
- (c) the conditions mentioned in paragraph (6) below are fulfilled in relation to it; and
- (d) the requirements of paragraph 1 of Schedule 2 to these Regulations have been (and continue to be) complied with in relation to its carrying on of an activity or its establishment of a branch.

(4) In these Regulations “quasi-European institution” means an institution—

- (a) which is not a European institution; but
- (b) which would be such an institution if the requirements of paragraph 1 of Schedule 2 to these Regulations had been (and continued to be) complied with in relation to its carrying on of an activity or its establishment of a branch;

and “quasi-European authorised institution” and “quasi-European subsidiary” shall be construed accordingly.

(5) For the purposes of paragraph (3)(b) above, any two or more European authorised institutions or quasi-European authorised institutions which—

- (a) are incorporated in or formed under the law of the same member State; and
- (b) hold voting rights in the same undertaking,

shall be regarded as a single institution; and in these Regulations “parent undertaking”, in relation to an institution which is a European subsidiary or quasi-European subsidiary by virtue of this paragraph, shall be construed accordingly.

(6) The conditions referred to in paragraph (3)(c) above are—

- (a) that each home-regulated activity stated in the institution’s recognition notice is carried on by it in its home State;
- (b) that the constituent instrument of the institution permits it to carry on each such activity;
- (c) that the consolidated supervision of the institution’s parent undertaking or, if more than one, any of them effectively includes supervision of the institution; and
- (d) that the institution’s parent undertaking has guaranteed or, if more than one, they have jointly and severally guaranteed, with the consent of the relevant supervisory authority in its or their home State, the institution’s obligations;

and in this paragraph “recognition notice”, in relation to an institution, means a notice given by it in accordance with paragraph 2 of Schedule 2 to these Regulations.

(7) In these Regulations “home-regulated activity”, in relation to a European institution or quasi-European authorised institution, means any listed activity—

- (a) in relation to which a supervisory authority in its home State has regulatory functions; and
- (b) which, in the case of a European subsidiary, it is carrying on its home State.

(8) Schedule 2 to these Regulations (which contains requirements to be complied with by or in relation to European institutions) shall have effect.

Authorised and permitted activities

4.—(1) For the purposes of these Regulations a European authorised institution is authorised to carry on in its home State any listed activity which its authorisation as a credit institution authorises it to carry on.

(2) For the purposes of these Regulations a European subsidiary is permitted to carry on in its home State any listed activity which it is lawful for it to carry on, and it is carrying on, in that State.