
STATUTORY INSTRUMENTS

1992 No. 3218

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

PART III

RECOGNITION IN OTHER MEMBER STATES OF UK INSTITUTIONS

Preliminary

UK institutions etc.

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

- (2) A credit institution is a UK authorised institution for the purposes of these Regulations if—
- (a) it is incorporated in or formed under the law of any part of the United Kingdom;
 - (b) its principal place of business is in the United Kingdom; and
 - (c) it is for the time being authorised by the Bank under the Banking Act(1) or by the Commission under the Building Societies Act(2).
- (3) A financial institution is a UK subsidiary for the purposes of these Regulations if—
- (a) it is incorporated in or formed under the law of any part of the United Kingdom;
 - (b) it is a 90 per cent. subsidiary undertaking of a UK authorised institution; and
 - (c) the conditions mentioned in paragraph (5) below are fulfilled in relation to it.

(4) For the purposes of paragraph (3)(b) above, any two or more UK authorised institutions which 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 UK subsidiary by virtue of this paragraph, shall be construed accordingly.

- (5) The conditions referred to in paragraph (3)(c) above are—
- (a) that each listed activity stated in the institution’s recognition notice is carried on by it in the United Kingdom;
 - (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 each jointly and severally guaranteed, with the consent of the UK authority, the institution’s obligations;

(1) 1987 c. 22.

(2) 1986 c. 53.

and in this paragraph and regulation 23(1) below “recognition notice”, in relation to an institution, means a notice given by it in accordance with paragraph 2 of Schedule 6 to these Regulations.

- (6) In these Regulations “home-regulated activity”—
- (a) in relation to a UK authorised institution, means any listed activity;
 - (b) in relation to a UK subsidiary, means any listed activity which it is carrying on in the United Kingdom.
- (7) In these Regulations “the UK authority”—
- (a) in relation to a UK authorised institution which is authorised by the Bank under the Banking Act or a UK subsidiary whose parent undertaking (or each of whose parent undertakings) is so authorised, means the Bank;
 - (b) in relation to a UK authorised institution which is authorised by the Commission under the Building Societies Act or a UK subsidiary whose parent undertaking (or each of whose parent undertakings) is so authorised, means the Commission;
 - (c) in relation to a UK subsidiary of whose parent undertakings one is authorised by the Bank under the Banking Act and another is authorised by the Commission under the Building Societies Act, means such one of the Bank and the Commission as may be agreed between them.
- (8) An agreement made for the purposes of sub-paragraph (c) of paragraph (7) above—
- (a) may relate to particular UK subsidiaries or to UK subsidiaries of particular descriptions; and
 - (b) shall provide that the UK authority in relation to any UK subsidiary falling within that sub-paragraph shall keep the other party informed of anything done by it in relation to that subsidiary.
- (9) In the case of a UK authorised institution which is authorised by the Commission under the Building Societies Act, the power conferred by section 18(1)(b) of that Act to guarantee the discharge of the liabilities of the bodies corporate there mentioned includes power, with the consent of the Commission, to guarantee their obligations for the purposes of this regulation.

Authorised and permitted activities

21.—(1) For the purposes of these Regulations a UK authorised institution is authorised to carry on in the United Kingdom any listed activity which it is lawful for it to carry on in the United Kingdom.

(2) For the purposes of these Regulations a UK subsidiary is permitted to carry on in the United Kingdom any listed activity which it is lawful for it to carry on, and it is carrying on, in the United Kingdom.