
STATUTORY INSTRUMENTS

1992 No. 3218

The Banking Coordination (Second Council Directive) Regulations 1992

PART VIII

AMENDMENTS OF BUILDING SOCIETIES ACT

Information

Confidentiality of certain information obtained by Commission

76.—(1) In subsection (2) of section 53 of the Building Societies Act (confidentiality of certain information obtained by Commission), paragraph (g) shall be omitted.

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

“(2A) As regards the disclosure of information with a view to the institution of, or otherwise for the purposes of, any proceedings in respect of the society under the Bankruptcy (Scotland) Act 1985⁽¹⁾ or the Insolvency Act 1986⁽²⁾, the disclosures permitted by subsection (2)(b) above do not include the disclosure of information relating to a person who (not being a director or other officer of the society) is or has been, to the knowledge of the Commission, involved in an attempt to secure the survival of the society as a going concern.”

(3) In subsection (4)(a) of that section, after sub-paragraph (ii) there shall be inserted the words “and (in either case) the disclosure would, in its opinion, be in accordance with article 12(7) of the First Council Directive”.

(4) In subsection (5) of that section⁽³⁾, for paragraph (b) there shall be substituted the following paragraph—

“(b) by the Bank, of any of its functions under the Banking Act 1987 or as a monetary authority or supervisor of money market and gilt market institutions;”.

(5) In subsection (6) of that section, for the words from “it is desirable” to the end there shall be substituted the following paragraphs—

“(a) it is desirable or expedient that the information should be disclosed in the interests of shareholders or depositors or, in the case of information for the Secretary of State, in the public interest; and

(b) disclosure is in accordance with article 12(7) of the First Council Directive.”

(6) At the end of subsection (7) of that section there shall be inserted the words “if the disclosure is made with a view to facilitating the discharge of any of the functions mentioned in paragraph (b) or, as the case may be, paragraph (c) above”.

(1) 1985 c. 66.

(2) 1986 c. 45.

(3) 1986 c. 53; section 53(5) has been amended by paragraph 26(4) of Schedule 6 to the Banking Act 1987 (c. 22).

(7) At the end of subsection (8) of that section there shall be inserted the words “if the disclosure is made with a view to facilitating the discharge of any prescribed functions of the authority”.

(8) In subsection (9)(a) of that section, for the words “the functions” there shall be substituted the words “the supervisory functions”.

(9) After subsection (11) of that section there shall be inserted the following subsection—

“(11A) Subsection (11) above does not apply in relation to disclosures to an overseas regulatory authority which is not a supervisory authority in another member State unless the Commission is satisfied that the authority is subject to restrictions on further disclosures at least equivalent to those imposed by this section and section 54.”

(10) After subsection (13) of that section there shall be inserted the following subsections—

“(13A) Information which is disclosed to a person with a view to facilitating or assisting the discharge of any functions shall not be used otherwise than with a view to facilitating or assisting the discharge of those functions.

(13B) Any person who uses information in contravention of subsection (13A) above shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.”

(11) After subsection (14) of that section there shall be inserted the following subsections—

“(15) Any reference in this section to facilitating or assisting the discharge of any functions is a reference to facilitating or assisting the discharge of those functions in relation to—

(a) a financial market; or

(b) persons carrying on the business of banking or insurance, Consumer Credit Act businesses or the business of providing other financial services;

and in this subsection 'Consumer Credit Act business' has the same meaning as in the Banking Coordination (Second Council Directive) Regulations 1992.

(16) Any reference in this section or section 54 to the Commission’s functions under this Act includes a reference to its functions under those Regulations.”