
STATUTORY INSTRUMENTS

1992 No. 3218

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

PART II

RECOGNITION OF EUROPEAN INSTITUTIONS

Functions of Bank

Power to prohibit the acceptance of deposits

9.—(1) In this regulation “prohibition” means a prohibition on accepting deposits in the United Kingdom.

(2) Subject to paragraph (3) and regulation 11 below, the Bank may impose a prohibition on a European institution if—

- (a) the institution is a European authorised institution which has established a branch in the United Kingdom and it appears to the Bank that the branch is not or may not be maintaining or, as the case may be, will not or may not maintain adequate liquidity;
- (b) the Bank is informed by the relevant supervisory authority in the institution’s home State that it has failed to take any or sufficient steps to cover risks arising from its open positions on financial markets in the United Kingdom;
- (c) it appears to the Bank that the institution has failed to comply with any obligation imposed on it by these Regulations or by or under any of the relevant Acts;
- (d) the Bank is informed by a supervisory authority in the institution’s home State that it has failed to comply with any obligation imposed on it by or under any rule of law in force in that State for purposes connected with the implementation of the Second Council Directive⁽¹⁾;
- (e) it appears to the Bank that it has been provided with false, misleading or inaccurate information by or on behalf of the institution or by or on behalf of a person who is or is to be a director, controller or manager of the institution; or
- (f) it appears to the Bank that the situation as respects the institution is such that, if it were authorised by the Bank under the Banking Act, the Bank could revoke the authorisation.

(3) The Bank may not impose a prohibition on a European institution on the ground mentioned in paragraph (2)(f) above unless—

- (a) the Bank has requested the relevant supervisory authority in the institution’s home State to take all appropriate measures for the purpose of securing that the institution remedies the situation; and
- (b) the Bank is satisfied either—

(1) Council Directive [89/646/EEC](#) (OJNo. L386, 30.12.89).

- (i) that that authority has failed or refused to take measures for that purpose; or
- (ii) that the measures taken by that authority have proved inadequate for that purpose.

(4) Any prohibition imposed under this regulation may be withdrawn by written notice served by the Bank on the institution concerned; and any such notice shall take effect on such date as is specified in the notice.

(5) In the case of a European institution which is a member of a self-regulating organisation, the reference in paragraph (2)(c) above to any obligation imposed by or under the relevant Acts shall be taken to include a reference to any obligation imposed by the rules of that organisation.

(6) In this regulation “controller”, “director” and “manager” have the same meanings as in the Banking Act.

(7) Schedule 3 to these Regulations (which makes supplemental provision with respect to prohibitions imposed under this regulation and restrictions imposed under regulation 10 below) shall have effect.