

## SCHEDULE 11

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART II

#### AMENDMENTS OF BANKING ACT

##### *Requirement as to minimum initial capital*

4.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of any part of the United Kingdom which immediately before the commencement date is authorised by the Bank under the Banking Act.

(2) Paragraph 4(3A) of Schedule 3 to the Banking Act (c) (institution to have own funds amounting to ecu 5 million or equivalent) shall have effect in relation to an institution to which this paragraph applies as if the reference to ecu 5 million were a reference to the relevant amount.

(3) Subject to sub-paragraphs (4) to (7) below, the relevant amount is the amount of own funds which the institution has on the commencement date.

(4) If, at any time after 22nd December 1989, the institution had or has own funds of a greater amount than the amount of its own funds on the commencement date, the relevant amount is that greater amount, or ecu 5 million, whichever is the less.

(5) Subject to sub-paragraph (6) below if, at any time after the commencement date, there is any change in the person who is the parent controller of the institution (not being a parent controller which is a subsidiary undertaking of another parent controller of the institution) the relevant amount is ecu 5 million.

(6) If—

- (a) the institution merges with another institution which is also an institution to which this paragraph applies; and
- (b) the Bank is satisfied that in the circumstances the merged institution need not have own funds amounting to not less than ecu 5 million,

then, subject to sub-paragraph (7) below, the relevant amount in relation to the merged institution is the aggregate own funds of the merging institutions on the date of the change, or ecu 5 million, whichever is the less.

(7) If, at any time after the commencement date, the merged institution has own funds of ecu 5 million or more, the relevant amount is ecu 5 million.

(8) Any reference in this paragraph to ecu 5 million includes a reference to an amount of equal value denominated wholly or partly in a different unit of account.

##### *Revocation of authorisation*

5.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of any part of the United Kingdom which immediately before the commencement date is authorised by the Bank under the Banking Act.

(2) If an institution to which this paragraph applies is immediately before the commencement date carrying on in the United Kingdom or elsewhere a listed activity (other than the acceptance of deposits from the public), it shall be treated for the purposes of subsection (1A)(b) of section 11 of

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the Banking Act<sup>(1)</sup> (revocation of authorisation) as if it had given prior notice to the Bank of its intention to carry on that activity.

#### *Restriction of authorisation*

6.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of another member State which immediately before the commencement date—

- (a) is authorised to act as a credit institution by the relevant supervisory authority in that State; and
- (b) is authorised by the Bank under the Banking Act.

(2) Subject to sub-paragraph (3) below, if immediately before the commencement date the authorisation of an institution to which this paragraph applies is subject to a restriction under section 12 of the Banking Act (restriction of authorisation), the restriction shall, if and to the extent that it is capable after that date of being imposed under regulation 10 of these Regulations, have effect as if it had been so imposed.

(3) If the restriction under that section imposes a limit on the duration of the authorisation, the restriction shall, at the time when (but for these Regulations) the authorisation would have expired, have effect as if it were a prohibition imposed on the institution under regulation 9 of these Regulations.

(4) The Bank shall, as soon as practicable after the commencement date, give written notice of every restriction under that section having effect as mentioned in sub-paragraph (2) or (3) above—

- (a) to the institution;
- (b) to the relevant supervisory authority in the institution's home State; and
- (c) to every other authority which the Bank knows is a connected UK authority.

#### *Information and documents*

7. Where a notice served on an institution to which paragraph 6 above applies under—

- (a) section 39 of the Banking Act (power to obtain information and require production of documents); or
- (b) section 41 of that Act (investigations on behalf of Bank),

is in force immediately before the commencement date, the notice shall have effect on and after that date as if it had been served under that section as extended by paragraph 8 or, as the case may be, paragraph 10 of Schedule 8 to these Regulations.

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(1) 1987 c. 22; section 11(1A) is inserted by regulation 28(1) of these Regulations.