
STATUTORY INSTRUMENTS

1995 No. 1442

**The Credit Institutions (Protection
of Depositors) Regulations 1995**

Part V

Miscellaneous and supplemental

Miscellaneous

Meaning of “deposit” in 1987 Act

45.—(1) In subsection (1) of section 5 of the 1987 Act (meaning of “deposit”), after the word “money” in the first place where it occurs, there shall be inserted the words “(whether denominated in a currency or in ecus)”.

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

“(1A) In subsection (1) above ‘ecu’ means—

- (a) the European currency unit as defined in Article 1 of Council Regulation No. 3320/94/EC(1)
- (b) any other unit of account which is defined by reference to the European currency unit as so defined.”

Information to be supplied on request

46.—(1) Each of the following, namely, a UK institution, a building society, an EEA institution and a non-EEA institution, shall secure that the information required by paragraph (4) below is supplied to any depositor or intending depositor who requests it—

- (a) immediately in a case of a request made at a United Kingdom office of the institution; and
- (b) as soon as practicable in any other case.

(2) In its application to UK institutions or building societies which accept deposits at offices in EEA States other than the United Kingdom, paragraph (1) above shall have effect as if the reference to a United Kingdom office included a reference to an office in such a State.

(3) Any information supplied in pursuance of paragraph (1) above shall be supplied in English except that, where the request is made at an office in an EEA State other than the United Kingdom, it shall be supplied instead in an official language of that State.

(4) The information required by this paragraph is as follows—

- (a) in the case of a UK institution or building society—
 - (i) a summary of the provisions of the relevant UK scheme; and

- (ii) where the institution or society participates in a relevant host State scheme, details of the level and scope of the supplementary protection afforded by that scheme;
 - (b) in the case of an EEA institution—
 - (i) a summary of the provisions of its home State scheme; and
 - (ii) where the institution participates in a UK scheme, details of the level and scope of the supplementary protection afforded by that scheme;
 - (c) in the case of a non-EEA institution which is participating in the deposit protection scheme, a summary of the provisions of that scheme;
 - (d) in the case of a non-EEA institution which is not so participating, a summary of the provisions of its home State scheme.
- (5) Any reference in paragraph (4) above to a summary of the provisions of a scheme is a reference to a summary of those provisions which includes (but is not limited to) details of the level and scope of the protection afforded by the Scheme.
- (6) Any reference in paragraph (4) above—
- (a) to a summary of the provisions of a scheme; or
 - (b) to details of the level and scope of the supplementary protection afforded by a scheme,
- includes a reference to a summary of any conditions that must be fulfilled, and any procedural steps that must be taken, before payments may be made in pursuance of the scheme.
- (7) A host State scheme is a relevant host State scheme for the purposes of paragraph (4) above if the request is made at or is communicated to an office in the EEA State in which that scheme is in force.
- (8) If the relevant authority is satisfied that it is necessary to do so—
- (a) for the purpose of enabling a UK institution or building society which is participating in a host State scheme to comply both—
 - (i) with the provisions of this regulation; and
 - (ii) with the corresponding provisions of the law of the EEA State in which that scheme is in force; or
 - (b) for the purpose of enabling an EEA institution to comply both—
 - (i) with the provision of this regulation; and
 - (ii) with the corresponding provisions of the law of its home State,the relevant authority may, on the application or with the consent of the institution or society, by order direct that any of the provisions of this regulation shall apply in relation to the institution or society with such modifications as may be specified in the order.
- (9) In this regulation—
- “the relevant authority”—
- (a) in relation to a UK institution or EEA institution, means the Bank;
 - (b) in relation to a building society, means the Commission;
- “the relevant UK scheme”—
- (a) in relation to a UK institution, means the deposit protection scheme;
 - (b) in relation to a building society, means the investor protection scheme.
- (10) For the purposes of this regulation and regulations 47 and 48 below—

- (a) any reference to an EEA institution's home State scheme includes a reference to any alternative permitted system or arrangement for the protection of depositors which is in force in the institution's home State and in which the institution participates;
- (b) any reference to an EEA institution participating in a UK scheme is a reference to it doing so in accordance with Chapter I of Part II of these Regulations;
- (c) any reference to a non-EEA institution participating in the deposit protection scheme is a reference to it not being one—
 - (i) which has, in accordance with Chapter III of Part II of these Regulations, elected not to participate in that scheme; and
 - (ii) whose election under that Chapter is still in force; and
- (d) any reference to a non-EEA institution not so participating shall be construed accordingly.

Information in explanatory literature

47.—(1) Each of the following, namely, a UK institution, a building society, an EEA institution and a non-EEA institution, shall secure that either the information required by regulation 46(4) above or the information required by paragraphs (2) and (3) below is included in any explanatory literature which—

- (a) relates to the making of deposits; and
- (b) is supplied to depositors or intending depositors by the institution or society in the ordinary course of business.

(2) The information required by this paragraph is as follows—

- (a) in the case of a UK institution or a building society, a statement to the effect—
 - (i) that most relevant deposits with the institution or society are protected by the relevant UK scheme; and
 - (ii) where the institution or society participates in a relevant host State scheme, that supplemental protection is afforded to such deposits by that scheme;
- (b) in the case of an EEA institution, a statement to the effect—
 - (i) that most relevant deposits with the institution are protected by its home State scheme; and
 - (ii) where the institution participates in a UK scheme, that supplemental protection is afforded to such deposits by that scheme;
- (c) in the case of a non-EEA institution which is participating in the deposit protection scheme, a statement to the effect that most relevant deposits with the institution are protected by that scheme;
- (d) in the case of a non-EEA institution which is not participating in the deposit protection scheme, a statement to the effect that most relevant deposits with the institution are protected by its home State scheme.

(3) The information required by this paragraph is as follows—

- (a) a statement as to the level of the protection afforded by the scheme or, as the case may be, each of the schemes as respects which a statement is required by paragraph (2) above; and
- (b) a statement to the effect that additional information about that scheme or each of those schemes may, in accordance with regulation 46 above, be obtained by any depositor or intending depositor who requests it.

(4) A host State scheme is a relevant host State scheme for the purposes of paragraph (2) above if the explanatory literature is sent from an office in the EEA State in which that scheme is in force.

(5) Paragraph (8) of regulation 46 above applies for the purposes of this regulation as it applies for the purposes of that regulation.

(6) In this regulation—

“ecu” means—

- (a) the European currency unit as defined in Article 1 of Council Regulation No. 3320/94/EC(2); or
- (b) any other unit of account which is defined by reference to the European currency unit as so defined;

“EEA currency” means the currency of an EEA State or ecus;

“relevant deposit”, in relation to a UK institution, a building society, an EEA institution or a non-EEA institution, means a deposit in an EEA currency—

- (a) made with a United Kingdom office of the institution or society; or
- (b) in the case of a UK institution or building society, made with an office of the institution or society in another EEA State;

“the relevant UK scheme” has the same meaning as in regulation 46 above.

Information in advertisements

48.—(1) In this regulation “deposit advertisement” means any advertisement containing—

- (a) an invitation to make a deposit; or
- (b) information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the making of a deposit,

and for the purposes of this regulation an advertisement includes any means of bringing such an invitation or such information to the notice of the person or persons to whom it is addressed and any reference to the issue of an advertisement shall be construed accordingly.

(2) Subject to the provisions of this regulation, no deposit advertisement which is issued in the United Kingdom and relates to any of the following, namely, a UK institution, a building society, an EEA institution and a non-EEA institution, shall include any information about—

- (a) the protection available to its depositors under the relevant UK scheme; or
- (b) the protection so available under any host State scheme or home State scheme.

(3) A deposit advertisement may include—

- (a) if it relates to a UK institution or a building society, a statement to the effect—
 - (i) that most relevant deposits with the institution or society are protected by the relevant UK scheme; and
 - (ii) where the institution or society participates in a host State scheme, that supplemental protection is afforded to such deposits by that scheme;
- (b) if it relates to an EEA institution, a statement to the effect—
 - (i) that most relevant deposits with the institution are protected by its home State scheme; and
 - (ii) where the institution participates in a UK scheme, that supplemental protection is afforded to such deposits by that scheme;

- (c) if it relates to a non-EEA institution which is participating in the deposit protection scheme, a statement to the effect that most relevant deposits with the institution are protected by that scheme;
 - (d) if it relates to a non-EEA institution which is not participating in the deposit protection scheme, a statement to the effect that most relevant deposits with the institution are protected by its home State scheme.
- (4) A deposit advertisement which includes a statement authorised by paragraph (3) above may also include—
- (a) a statement as to the level of the protection afforded by the scheme or, as the case may be, each of the schemes referred to in the statement so authorised; and
 - (b) a statement to the effect that additional information about that scheme or each of those schemes may, in accordance with regulation 46 above, be obtained by any depositor or intending depositor who requests it.
- (5) Nothing in this regulation shall be taken to prohibit the inclusion, in any explanatory literature which relates to the making of deposits and is supplied to depositors or intending depositors in the ordinary course of business, of any information required by regulation 46(4) above.
- (6) In this regulation—
- “relevant deposit” has the same meaning as in regulation 47 above;
 - “the relevant UK scheme”—
- (a) in relation to a UK institution, means the deposit protection scheme;
 - (b) in relation to a building society, means the investor protection scheme;
 - (c) in relation to a participating EEA institution, means the UK scheme in which it is participating.
- (7) Subsections (6) and (7) of section 32 of the 1987 Act (advertisement regulations) shall apply for the purposes of this regulation as they apply for the purposes of that section; and in subsection (6) of that section as it so applies the reference to deposits shall be construed in accordance with regulation 2(2) above.

Supplemental

Enforcement: UK and non-EEA institutions

- 49.**—(1) In subsection (1A)(3) of section 11 of the 1987 Act (revocation of authorisation)—
- (a) in paragraph (e), after the words “the Banking Coordination (Second Council Directive) Regulations 1992” there shall be inserted the words “or the Credit Institutions (Protection of Depositors) Regulations 1995”; and
 - (b) in paragraph (f), after the words “Second Council Directive” there shall be inserted the words “or Directive [94/19/EC](#) on deposit-guarantee schemes”.
- (2) in its application to a UK institution or participating non-EEA institution, subsection (2) of section 12 of the 1987 Act (restriction of authorisation) shall have effect as if the reference in paragraph (b) to the protection of the institution’s depositors or potential depositors included references to—
- (a) securing the payment by the institution of unpaid contributions; and

(3) Subsection (1A) was inserted by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I.1992/3218), regulation 28(1).

- (b) in the case of a UK institution, securing that the institution complies with any obligation imposed by or under the law of another EEA State in connection with its participation in a scheme for the protection of depositors or investors which is in force in that State.
- (3) Where the Bank—
 - (a) is informed by the Deposit Protection Board of an unpaid contribution of a UK institution or participating non-EEA institution; or
 - (b) is informed by a supervisory authority in another EEA State that a UK institution is failing to comply with such an obligation as is mentioned in paragraph (2)(b) above,
 the Bank shall, after such consultation with that Board or supervisory authority as it considers appropriate, consider whether to exercise its powers under section 11 or 12 of the 1987 Act.
- (4) In this regulation “unpaid contribution”, in relation to an institution, means any amount specified in a notice served on the institution under subsection (2) of section 52 of the 1987 Act which remains unpaid after the period of 21 days mentioned in that subsection.

Enforcement: EEA institutions

- 50.**—(1) In that paragraph (2)(c) of regulation 9 of the 1992 Regulations (power to prohibit the acceptance of deposits), for the words from “by these Regulations” to the end there shall be substituted—
- “(i) by these Regulations or by or under any of the relevant Acts; or
 - (ii) by the Credit Institutions (Protection of Depositors) Regulations 1995:.”
- (2) In paragraph (2)(d) of that regulation for the words “the implementation of the second Council Directive” there shall be substituted—
- “(i) the implementation of the Second Council Directive; or
 - (ii) the implementation of Directive [94/19/EC](#) on deposit-guarantee schemes;.”

Enforcement: building societies

- 51.**—(1) In relation to any building society, subsection (1) of section 42 of the 1986 Act⁽⁴⁾ (imposition of conditions on authorisation) shall have effect as if the reference to protecting the investments of the society’s shareholders or depositors included references to—
- (a) securing the payment by the society of unpaid contributions; and
 - (b) securing that the society complies with any obligation imposed by or under the law of another EEA State in connection with its participation in a scheme for the protection of depositors or investors which is in force in that State.
- (2) In subsection (1A) of section 43 of the 1986 Act⁽⁵⁾ (revocation of authorisation)—
- (a) after paragraph (b) there shall be inserted the following paragraph—
 - “(bb) it appears to the Commission that the society has failed to comply with any obligation imposed on it by or under Part IV of this Act;.”
 - (b) in paragraph (e), after the words “the Banking Coordination (Second Council Directive) Regulations 1992” there shall be inserted the words “or the Credit Institutions (Protection of Depositors) Regulations 1995”; and

⁽⁴⁾ [1986 c. 53](#); section 42 was amended by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. [1992/3218](#)), regulation 70.

⁽⁵⁾ [1986 c. 53](#); section 43 was amended by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. [1992/3218](#)), regulation 71.

- (c) in paragraph (f), after the words “the Second Council Directive” there shall be inserted the words “or Directive 94/19/EC on deposit-guarantee schemes”.

(3) Where the Commission—

- (a) is informed by the Investor Protection Board of an unpaid contribution of a building society; or
- (b) is informed by a supervisory authority in another EEA State that a building society is failing to comply with such an obligation as is mentioned in paragraph (1)(b) above,

the Commission shall, after such consultation with that Board or supervisory authority as it considers appropriate, consider whether to exercise its powers under section 42 or 43 of the 1986 Act.

(4) In this regulation “unpaid contribution”, in relation to a building society, means any amount specified in a notice served on the institution under subsection (8) of section 26 of the 1986 Act which remains unpaid after the period of 21 days mentioned in that subsection.

Consequential amendments

52.—(1) In subsection (2A)(6) of section 119 of the 1986 Act (interpretation), after the word “ecu” there shall be inserted the words “(except in Part IV)”.

(2) In the Banking Act 1987 (Advertisements) Regulations 1988(7), regulation 6 shall be omitted.

(3) In Schedule 9 to the Insolvency (Northern Ireland) Order 1989(8) (amendments), paragraphs 42, 43(a), 50(a) and (c) and 51 (which are superseded by regulations 30, 31, 39 and 41 above) shall be omitted.

(4) In Schedule 8 to the 1992 Regulations (amendments of 1987 Act), paragraphs 13 to 16 (which are superseded by Part III of these Regulations) shall be omitted.

Transitional provisions and savings

53.—(1) The provisions of Part III of these Regulations shall not apply in any case where—

- (a) an institution becomes insolvent (within the meaning of Part II of the 1987 Act) at any time before the commencement date and at that time—
- (i) it is an authorised institution; or
- (ii) it is a former authorised institution (not being a recognised bank or licensed institution excluded by an order under section 23(2) of the Banking Act 1979; or
- (b) an administration order is made in relation to an institution under section 8 of the Insolvency Act 1986 or under Article 21 of the Insolvency (Northern Ireland) Order 1989 at any time before the commencement date and at that time it is such an institution as is mentioned in sub-paragraph (a)(i) or (ii) above.

(2) The provisions of Part IV of these Regulations shall not apply in any case where a building society becomes insolvent (within the meaning of Part IV of the 1986 Act) at any time before the commencement date.

(3) Where, as regards a UK institution or non-EEA institution, the Bank is satisfied before the commencement date that, for reasons which directly relate to the institution’s financial circumstances, the institution—

- (a) is unable to repay protected deposits which are due and payable; and
- (b) has no current prospect of being able to do so,

(6) Subsection (2A) was inserted by regulation 81 of the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).

(7) S.I. 1988/645; amended by S.I. 1992/3218.

(8) S.I. 1989/2405 (N.I. 19).

the 21 days mentioned in subsection (4)(a) of section 59 of the 1987 Act shall begin to run on that date.

(4) Where, as regards a building society, the Commission is satisfied before the commencement date that, for reasons which directly relate to the society's financial circumstances, the society—

- (a) is unable to repay investments which are due and payable; and
- (b) has no current prospect of being able to do so,

the 21 days mentioned in subsection (4)(a) of section 25A of the 1986 Act shall begin to run on that date.

(5) In this regulation “authorised institution” and “former authorised institution” have the same meanings as in the 1987 Act.

Transitory provisions

54.—(1) This regulation applies to any institution which—

- (a) is authorised to act as a credit institution by a supervisory authority in Spain or Greece;
- (b) is listed in Annex III to Directive [94/19/EC](#) on deposit-guarantee schemes; and
- (c) accepts or proposes to accept deposits in the United Kingdom.

(2) In relation to any time before 1st January 2000, these Regulations, Part II of the 1987 Act and Part IV of the 1986 Act shall each have effect in relation to an institution to which this regulation applies as if—

- (a) the institution were an authorised institution (within the meaning of the 1987 Act); and
- (b) Spain or, as the case may require, Greece were not an EEA State.