
STATUTORY INSTRUMENTS

1995 No. 3275

The Investment Services Regulations 1995

PART I
GENERAL

Citation and commencement

- 1.—(1) These Regulations may be cited as the Investment Services Regulations 1995.
- (2) These Regulations, except regulations 27 and 31, shall come into force on 1st January 1996, and those regulations shall come into force on 1st January 1997.

Interpretation: general

- 2.—(1) In these Regulations—
- “the Consumer Credit Act” means the Consumer Credit Act 1974(1);
 - “the Financial Services Act” means the Financial Services Act 1986(2);
 - “another EEA State” means an EEA State other than the United Kingdom;
 - “appointed representative” has the same meaning as in the Financial Services Act;
 - “authorised”, in relation to the provision of a listed activity, shall be construed in accordance with regulation 4 or, as the case may be, regulation 19 below;
 - “authorised person” has the same meaning as in the Financial Services Act;
 - “the Bank” means the Bank of England;
 - “the Board” means The Securities and Investments Board(3);
 - “branch” means one or more places of business established or proposed to be established in the same EEA State for the purpose of providing listed services;
 - “the Capital Adequacy Directive” means the Council Directive on the capital adequacy of investment firms and credit institutions (No.93/6/EEC)(4);
 - “the commencement date” means 1st January 1996;
 - “connected UK authority”, in relation to an investment firm providing or proposing to provide any listed service in the United Kingdom, means an authority in the United Kingdom which has regulatory functions in relation to that service;

(1) 1974 c. 39.

(2) 1986 c. 60; various functions of the Secretary of State under the Financial Services Act 1986 have been transferred to the Treasury by the Transfer of Functions (Financial Services) Order 1992 (S.I. 1992/1315).

(3) Various functions under the Financial Services Act 1986 have been transferred to the Securities and Investments Board by the Financial Services Act 1986 (Delegation) Order 1987 (S.I. 1987/942), the Financial Services Act 1986 (Delegation) (No. 2) Order 1988 (S.I. 1988/738), the Companies Act 1989 (Commencement No. 3, Transitional Provisions and Transfer of Functions under the Financial Services Act 1986) Order 1990 (S.I. 1990/354), the Financial Services Act 1986 (Delegation) Order 1991 (S.I. 1991/200) and the Financial Services Act 1986 (Delegation) (No. 2) Order 1991 (S.I. 1991/1256).

(4) OJ No. L141, 15.3.93, p. 1.

“Consumer Credit Act business” means consumer credit business, consumer hire business or ancillary credit business;

“consumer credit business”, “consumer hire business” and “ancillary credit business” have the same meanings as in the Consumer Credit Act;

“core investment service” means a service listed in Section A of the Annex to the Investment Services Directive, the text of which is set out in Schedule 1 to these Regulations together with the text of Section B of that Annex which is relevant to the interpretation of Section A;

“credit institution” means a credit institution as defined in article 1 of the First Council Directive, that is to say, an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account;

“designated agency” has the same meaning as in the Financial Services Act;

“the Director” means the Director General of Fair Trading;

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992⁽⁵⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁶⁾;

“establish”, in relation to a branch, means establish the place of business or, as the case may be, the first place of business which constitutes the branch;

“European authorised institution” means a credit institution whose authorisation under the First Council Directive and the Second Council Directive covers one or more core investment services;

“the European Commission” means the Commission of the Communities;

“European investment firm” has the meaning given by regulation 3 below;

“European subsidiary” has the same meaning as in the Banking Coordination (Second Council Directive) Regulations 1992⁽⁷⁾, as those regulations have effect immediately before the commencement date;

“exempted person” has the same meaning as in the Financial Services Act;

“50 per cent. controller” has the same meaning as in regulation 46;

“firm” includes an individual and a body corporate;

“the First Council Directive” means the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (No. [77/780/EEC](#))⁽⁸⁾;

“home-regulated investment business”, in relation to a European investment firm, means investment business which consists in the provision of one or more listed services which its authorisation as an investment firm authorises it to provide;

“home State”, in relation to—

- (a) an investment firm which has no registered office, means the EEA State in which the firm’s head office is situated; and
- (b) an investment firm which has a registered office, means the EEA state in which that office is situated;

“investment business” has the same meaning as in the Financial Services Act;

“investment firm” has the meaning given in paragraph (2) below;

(5) Cm 2073.

(6) Cm 2183.

(7) [S.I. 1992 No. 3218](#).

(8) OJ No. L322, 17.12.77, p. 30, as amended by Council Directive [86/524/EEC](#) (OJ No. L309, 4.11.86, p. 15), and by Council Directive No. [89/646/EEC](#) (OJ No. L386, 30.12.89, p. 1.).

“the Investment Services Directive” means the Council Directive on investment services in the securities field (No. [93/22/EEC](#))(**9**);

“listed service” means a service listed in Section A or C of the Annex to the Investment Services Directive;

“member” and “rules”, in relation to a recognised self-regulating organisation, have the same meanings as in the Financial Services Act;

“quasi-European investment firm” has the meaning given by regulation 3(2) below;

“recognised self-regulating organisation” has the same meaning as in the Financial Services Act;

“relevant supervisory authority”, in relation to another EEA State, means the authority in that State which has regulatory functions in relation to any core investment service, whether or not it also has such functions in relation to any non-core investment service;

“requisite details”, in relation to an investment firm means—

- (a) particulars of the programme of operations of the business to be carried on by the firm, including a description of the particular core investment services and non-core investment services to be provided; and
- (b) where a branch is established or proposed to be established—
 - (i) particulars of the structural organisation of the branch;
 - (ii) the address in the EEA State in which the branch is or is to be established from which information about the business may be obtained; and
 - (iii) the names of the managers of the business;

“the Second Council Directive” means the Second Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions and amending the First Council Directive (No. 89/646/EEC)(**10**);

“supervisory authority”, in relation to another EEA State, means an authority in that State which has regulatory functions in relation to one or more listed services;

“UK authorised institution” and “UK subsidiary” have the same meanings as in the Banking Coordination (Second Council Directive) Regulations 1992(**11**);

“UK investment firm” and “UK authorised investment firm” have the meaning given by regulation 18 below; and

“UK regulatory authority”, in relation to an investment firm providing or proposing to provide a core or non-core investment service in the United Kingdom, means an authority in the United Kingdom which has regulatory functions in relation to that service.

(2) In these Regulations, “investment firm” means any person, other than one within paragraph (3) below, whose regular occupation or business is the provision of any one or more core investment services to third parties on a professional basis.

(3) The persons within this paragraph are persons to whom the Investment Services Directive does not apply by virtue of the provisions of paragraph 2 of article 2 of that directive, the text of which is set out in Schedule 2 to these Regulations.

(4) For the purposes of paragraph (2) above, where a person (the first person) provides one of the services referred to in paragraph 1(a) of Section A of the Annex to the Investment Services Directive (reception and transmission of orders) solely for the account of and under the full and

(9) OJ No. L141, 10.5.93, p. 27.

(10) OJ No. L386, 30.12.89, p. 1.

(11) S.I. 1992/3218.

unconditional responsibility of another person (the second person), that service shall be regarded as a service provided not by the first person but by the second person.

(5) In these Regulations “parent undertaking”, “share”, “subsidiary undertaking” and “undertaking” have the same meanings as in Part VII of the Companies Act 1985⁽¹²⁾ or Part VIII the Companies (Northern Ireland) Order 1986⁽¹³⁾ except that—

- (a) “subsidiary undertaking” also includes, in relation to an investment firm incorporated in or formed under the law of another EEA State, any undertaking which is a subsidiary undertaking within the meaning of any rule of law in force in that State for purposes connected with the implementation of the Seventh Company Law Directive based on article 54(3)(g) of the Treaty on consolidated accounts (No. 83/349/EEC)⁽¹⁴⁾; and
- (b) “parent undertaking” shall be construed accordingly.

(6) Any reference in these Regulations to the carrying on of home-regulated investment business in the United Kingdom—

- (a) is a reference to the carrying on of such business in reliance on regulation 5(1)(a) below; and
- (b) shall be construed in accordance with section 1(3) of the Financial Services Act.

⁽¹²⁾ 1985 c. 6. Section 258 was inserted by the Companies Act 1989 (c. 40), section 21(1), and section 259 was inserted by section 22 of the Companies Act 1989.

⁽¹³⁾ S.I. 1986/1032 (N.I.6). Article 266 was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I.5)), Article 23(1), and Article 267 was inserted by Article 24 of the Companies (Northern Ireland) Order 1990.

⁽¹⁴⁾ OJ No. L193, 18.7.83, p. 1; the relevant amending instrument is Council Directive 90/605/EEC (OJ No. L316, 16.11.90, p. 60).