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## STATUTORY INSTRUMENTS

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# 1995 No. 3275

## The Investment Services Regulations 1995

### PART III

#### RELATIONS WITH THIRD COUNTRIES

##### **Treasury directions for implementing certain EC decisions**

**17.—**(1) In this regulation “relevant decision” means any decision of the Council or the Commission of the Communities under article 7.5 of the Investment Services Directive (relations with third countries, limitation or suspension of decisions regarding applications for authorisations).

(2) For the purpose of implementing a relevant decision the Treasury may issue a direction within any of paragraphs (3), (4) or (5) below.

(3) A direction is within this paragraph if it is a direction to the Board—

- (a) to refuse an application for authorisation made by an investment firm incorporated in or formed under the law of any part of the United Kingdom, other than a UK authorised institution;
- (b) to defer its decision on such an application either indefinitely or for such period as may be specified in the direction; or
- (c) to serve a notice of objection on a person—
  - (i) who has given notice under regulation 41 below of his intention to become a 50 per cent. controller of any description of such a firm; or
  - (ii) who has become such a controller without giving the required notice under that regulation.

(4) A direction is within this paragraph if it is a direction to the Bank—

- (a) to refuse an application for admission to the list maintained for the purposes of section 43 of the Financial Services Act (listed money market institutions) made by an investment firm incorporated in or formed under the law of any part of the United Kingdom, other than a UK authorised institution;
- (b) to defer its decision on such an application either indefinitely or for such period as may be specified in the direction; or
- (c) to serve a notice of objection on a person—
  - (i) who has given notice under regulation 41 below of his intention to become a 50 per cent. controller of any description of such a firm; or
  - (ii) who has become such a controller without giving the required notice under that regulation.

(5) A direction is within this paragraph if it is a direction to a recognised self-regulating organisation—

- (a) to refuse an application for admission to membership of the organisation concerned made by an investment firm incorporated in or formed under the law of any part of the United Kingdom other than a UK authorised institution;
  - (b) to defer its decision on such an application either indefinitely or for such period as may be specified in the direction; or
  - (c) to serve a notice of objection on a person—
    - (i) who has given notice under regulation 41 below of his intention to become a 50 per cent. controller of any description of such a firm; or
    - (ii) who has become such a controller without giving the required notice under that regulation.
- (6) A direction may relate to a particular firm or class of firm and may be given before the application in question or, as the case may be, any notice under regulation 41 below is received.
- (7) Any notice of objection served by virtue of a direction falling within paragraph (3)(c), (4)(c) or (5)(c) above shall state the grounds upon which it is served.
- (8) A direction under this regulation may be revoked at any time by the Treasury, but such revocation shall not affect anything done in accordance with the direction before it was revoked.
- (9) In consequence of the provision made by this regulation—
- (a) section 29(1) of the Financial Services Act (particulars of notice) shall have effect as if the Board were not required to serve a notice of its intention to refuse an application in a case in which the application is to be refused in pursuance of a direction given under this regulation but were required instead to give a notice refusing the application, stating the reasons for the refusal;
  - (b) section 29(4) of the Financial Services Act (notice of proposed refusal, withdrawal or suspension) shall have effect as if a notice given in pursuance of this regulation refusing authorisation were not required to give particulars of the rights mentioned in that section; and
  - (c) section 97(1) of the Financial Services Act (references to Financial Services Tribunal) shall have effect as if it did not confer any right on a person to whom a notice is given in pursuance of this regulation refusing authorisation to require that the matter be referred to the Financial Services Tribunal.