
STATUTORY INSTRUMENTS

2006 No. 3221

FINANCIAL SERVICES AND MARKETS

The Capital Requirements Regulations 2006

Made - - - - *4th December 2006*
Laid before Parliament *5th December 2006*
Coming into force - - *1st January 2007*

The Treasury are a government department designated for the purposes of section 2(2) of the European Communities Act 1972 ^{M1} in relation to—

- (a) credit and financial institutions and the taking of deposits or other repayable funds from the public ^{M2}; and
- (b) measures relating to investment firms and to the provisions of investment services ^{M3}.

The Treasury, in exercise of the powers conferred by sections 2(2) of that Act, make the following Regulations:

Marginal Citations

- M1** 1972 c.68. By virtue of the amendment of section 1(2) made by section 1 of the [European Economic Area Act 1993 \(c. 51\)](#) regulations may be made under section 2(2) to implement obligations of the United Kingdom created by or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting that Agreement signed at Brussels on 17th March 1993 (Cm 2183).
- M2** [S.I. 2001/3495](#).
- M3** [S.I. 1993/2661](#).

PART 1

INTRODUCTION

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Capital Requirements Regulations 2006 and come into force on 1st January 2007.

(2) In these Regulations—

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

“the Act” means the Financial Services and Markets Act 2000 ^{M4};

“application” unless the context otherwise requires means an application—

- (a) for a permission;
- (b) to vary or revoke a permission; or
- (c) to vary or revoke the terms and conditions to which a permission is subject;

“banking consolidation directive” ^{M5} means Council Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions [^{F1}as last amended by Directive [2009/111/EC](#) of the European Parliament and of the Council];

[^{F2}“banking or investment group” means the group to which an EEA parent credit institution, EEA parent investment firm or EEA parent financial holding company belongs;]

“capital adequacy directive” ^{M6} means Council Directive [2006/49/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the capital adequacy of investment firms and credit institutions [^{F3}as last amended by Directive [2009/111/EC](#) of the European Parliament and of the Council];

“decision” means [^{F4}, for the purposes of Part 2,] a decision made by the EEA consolidated supervisor in relation to an application or a proposal;

“EEA consolidated supervisor” means the competent authority responsible, under the banking consolidation directive or under the banking consolidation directive as applied by Articles 2(2) and 37(1) of the capital adequacy directive, for the exercise of supervision on a consolidated basis of—

- (a) an EEA parent credit institution;
- (b) an EEA parent investment firm; or
- (c) credit institutions or investment firms controlled by an EEA parent financial holding company where the parent is authorised in a different EEA State to at least one of the subsidiaries;

“EEA parent credit institution” means a parent credit institution in an EEA State which is not a subsidiary of another credit institution or investment firm authorised in any EEA State, or of a financial holding company set up in any EEA State;

“EEA parent investment firm” means a parent investment firm in an EEA State which is not a subsidiary of another credit institution or investment firm authorised in any EEA State or of a financial holding company set up in any EEA State;

“EEA parent financial holding company” means a parent financial holding company in an EEA State which is not a subsidiary of another credit institution or investment firm authorised in any EEA State or of another financial holding company set up in any EEA State;

[^{F5}“home EEA state” means the EEA state in which a credit institution or investment firm has been authorised in accordance with the banking consolidation directive or the capital adequacy directive;

“host EEA state” means the EEA state in which a credit institution or investment firm authorised in another EEA state has a branch;]

“joint decision” means [^{F6}, for the purposes of Part 2,] a decision, made jointly by all relevant competent authorities and the EEA consolidated supervisor, in relation to an application or a proposal;

“national consolidated supervisor” means the competent authority responsible, under the banking consolidation directive or under the banking consolidation directive as applied by

Articles 2(2) and 37(1) of the capital adequacy directive, for the exercise of supervision on a consolidated basis of—

- (a) a parent credit institution in an EEA State;
- (b) a parent investment firm in an EEA State; or
- (c) credit institutions or investment firms controlled by a parent financial holding company in an EEA State;

“parent credit institution in an EEA State” means a credit institution which has a credit institution, an investment firm or a financial institution as a subsidiary or which holds a participation in such an institution, and which is not itself a subsidiary of another credit institution or investment firm authorised in the same EEA State, or of a financial holding company set up in the same EEA State;

“parent investment firm in an EEA State” means an investment firm which has a credit institution, an investment firm or a financial institution as a subsidiary or which holds a participation in such an institution, and which is not itself a subsidiary of another credit institution or investment firm authorised in the same EEA State or of a financial holding company set up in the same EEA State;

“parent financial holding company in an EEA State” means a financial holding company which is not itself a subsidiary of a credit institution or investment firm authorised in the same EEA State, or of another financial holding company set up in the same EEA State;

“permission” means a permission referred to in Article 84(1) or 87(9) of the banking consolidation directive, an approval referred to in Article 105 or Annex III, Part 6 of the banking consolidation directive or recognition referred to in Annex V of the capital adequacy directive;

“proposal” means a proposal made by the EEA consolidated supervisor to vary or revoke a permission or vary or revoke the terms or conditions to which it is subject;

“relevant competent authority” means a competent authority which is not the EEA consolidated supervisor and which has authorised a subsidiary of an EEA parent credit institution, a subsidiary of an EEA parent investment firm or a subsidiary of an EEA parent financial holding company.

[^{F7}“relevant investment firm” means an investment firm which does not meet the conditions set out in Article 20(2) or (3) or the first paragraph of Article 46 of the capital adequacy directive;

“risk assessment” means, unless the context otherwise requires, an evaluation of the risks to which a credit institution or investment firm or a banking or investment group is or might be exposed, in accordance with Articles 123 and 124 of the banking consolidation directive;

“significant branch” has the meaning given by regulation 16A.]

- (3) Save as provided by paragraph (2)—
 - (a) any expression used in these Regulations which is used in the banking consolidation directive or the capital adequacy directive shall have the meaning given by those directives; and
 - (b) any other expression used in these Regulations which is defined for the purposes of the Act has the meaning given by the Act.

F1 Words in [reg. 1\(2\)](#) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), [regs. 1, 3\(a\)](#)

F2 Words in [reg. 1\(2\)](#) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), [regs. 1, 3\(b\)](#)

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

- F3** Words in reg. 1(2) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **3(c)**
- F4** Words in reg. 1(2) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **3(d)**
- F5** Words in reg. 1(2) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **3(e)**
- F6** Words in reg. 1(2) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **3(f)**
- F7** Words in reg. 1(2) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **3(g)**

Marginal Citations

- M4** 2000 c.8.
- M5** O.J. No L 771, 30.6.2006, p.1.
- M6** O.J. No L 771, 30.6.2006, p.201.

PART 2

APPLICATIONS FOR PERMISSIONS

Application for permission

- 2.**—(1) This regulation applies where the Authority is the EEA consolidated supervisor.
- (2) An application may be made to the Authority—
- (a) by an EEA parent credit institution and its subsidiaries;
 - (b) by an EEA parent investment firm and its subsidiaries; or
 - (c) jointly by the subsidiaries of an EEA parent financial holding company.
- (3) An application must be made in such manner as the Authority may direct.

Applications to the Authority as EEA consolidated supervisor

- 3.**—(1) This regulation applies where the Authority is the EEA consolidated supervisor and has received an application.
- (2) The Authority must—
- (a) forward the complete application to the relevant competent authorities without delay;
 - (b) work together, in full consultation with the relevant competent authorities, and do everything in its power to reach a joint decision within six months from the date on which it received the complete application; and
 - (c) provide the applicants with a document containing the fully reasoned joint decision, if any.
- (3) If a joint decision is not made by the Authority and the relevant competent authorities within the period specified in paragraph (2)(b), the Authority must—
- (a) make its own decision on the application, taking account of the views and reservations of the relevant competent authorities expressed during that period; and
 - (b) provide the applicant and the relevant competent authorities with a document containing the fully reasoned decision.

Applications forwarded to the Authority as a relevant competent authority

4.—(1) This regulation applies where the Authority is a relevant competent authority and has been forwarded a complete application by the EEA consolidated supervisor.

(2) The Authority must work together, in full consultation with the EEA consolidated supervisor and the other relevant competent authorities, and do everything in its power to reach a joint decision within six months from the date on which the EEA consolidated supervisor received the complete application.

Proposals to vary or revoke a decision or joint decision

5.—(1) This regulation applies where the Authority is the EEA consolidated supervisor and intends to make a proposal.

(2) The Authority must give written notice to those persons to whom the permission, which is the subject of the intended proposal, applies.

(3) The notice must—

- (a) give details of the intended proposal; and
- (b) inform the persons to whom the permission applies that they may make representations to the Authority within such period as may be specified in the notice.

(4) If after the period specified in the notice has expired the Authority makes the proposal, it must—

- (a) send the proposal and forward any representations received during that period to the relevant competent authorities;
- (b) work together, in full consultation with the relevant competent authorities, taking account of such representations and do everything in its power to reach a joint decision within six months from the date on which the proposal was made; and
- (c) provide the persons to whom the permission applies with a document containing the fully reasoned joint decision, if any.

(5) If a joint decision is not made by the Authority and the relevant competent authorities within the period specified in paragraph (4)(b), the Authority must—

- (a) make its own decision on the proposal, taking account of the views and reservations of the relevant competent authorities expressed during that period and of any representations made by the persons to whom the permission applies;
- (b) provide the persons to whom the permission applies and the relevant competent authorities with a document containing the fully reasoned decision.

6. Where the Authority is a relevant competent authority and receives a proposal from the EEA consolidated supervisor, it must work together, in full consultation with the EEA consolidated supervisor and the other relevant competent authorities, and do everything in its power to reach a joint decision within six months from the date on which the proposal was made.

Recognition and application of a decision or joint decision

7. The Authority must recognise a decision or a joint decision as determinative and apply it in respect of any authorised person to whom the banking consolidation directive or the capital adequacy directive applies.

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

Exercise of functions under section 148 of the Act for the purpose of applying a decision or a joint decision

8.—(1) The Authority may exercise the powers conferred by section 148 of the Act (modification or waiver of rules) if it appears desirable to do so for the purpose of applying a decision or a joint decision.

(2) In such a case the requirements contained in—

- (a) subsections (2) and (9)(b) of section 148 for the Authority's powers to be exercisable only on the application or with the consent of an authorised person; and
- (b) section 148(4),

shall not apply.

9.—(1) Where the Authority proposes to exercise the powers conferred by section 148 of the Act in relation to an authorised person for the purpose of applying a decision or a joint decision, other than on the application or with the consent of that person, it must give him written notice and have regard to any representations received within such period as is specified in the notice.

(2) The notice must—

- (a) give details of any proposed direction or variation of a direction;
- (b) give details of any proposed conditions;
- (c) inform the person that, within such period as may be specified in the notice, he may make representations to the Authority;
- (d) inform the person when the proposed direction, variation or condition takes effect.

PART 3

EXERCISE OF SUPERVISION

The Authority's duties as an EEA consolidated supervisor

[^{F8}**10.** Regulations 10A, 11, 12 and 12A apply where the Authority is the EEA consolidated supervisor.

F8 Regs. 10-10B substituted for reg. 10 (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 4

10A.—(1) The Authority must submit a report containing its risk assessment of a banking or investment group to the relevant competent authorities.

(2) Subject to paragraph (8), the Authority must take all reasonable steps to reach a joint decision with the relevant competent authorities, within four months of submitting its report, on—

- (a) the application of Articles 123 and 124 of the banking consolidation directive to determine the adequacy of the consolidated level of own funds held by the group with respect to its financial situation and risk profile; and
- (b) the required level of own funds for the application of Article 136(2) of the banking consolidation directive to each member of the group and to the group as a whole.

(3) The Authority must consider, for the purposes of reaching a joint decision, the risk assessments prepared in relation to subsidiaries by the relevant competent authorities.

(4) The Authority must provide the relevant institution with a document setting out the fully reasoned joint decision.

(5) Where a joint decision cannot be reached, the Authority must, at the request of any of the relevant competent authorities, consult the Committee of European Banking Supervisors, or may do so of its own initiative.

(6) Subject to paragraph (8), if a joint decision has not been made within four months of the Authority submitting its report in accordance with paragraph (1), the Authority must—

- (a) after considering the risk assessments prepared in relation to subsidiaries by the relevant competent authorities and any advice given by the Committee of European Banking Supervisors, make a decision on the matters referred to in paragraph (2);
- (b) where the Authority's decision differs significantly from any advice given by the Committee of European Banking Supervisors, give reasons for the difference;
- (c) provide all relevant competent authorities and the relevant institution with a document containing its decision and the decisions of the relevant competent authorities on the levels of own funds required to be held by subsidiaries on an individual or, where appropriate, sub-consolidated basis;
- (d) recognise the decisions taken by the relevant competent authorities, mentioned in sub-paragraph (c), as determinative.

(7) The Authority must update the joint decision reached in accordance with paragraph (2) or its own decision made under paragraph (6)(a)—

- (a) annually; or
- (b) in exceptional circumstances, on receipt of a fully reasoned written request by a relevant competent authority to update the decision on the application of Article 136(2) of the banking consolidation directive;

and, where sub-paragraph (b) applies, the updated decision may be made after consultation with the competent authority making the request, without consulting the other relevant competent authorities.

(8) Where the Authority submits a report in accordance with paragraph (1) before 1st January 2013, for “four months” in paragraphs (2) and (6) substitute “six months”.

(9) In this regulation “relevant institution” means the credit institution or investment firm for whose supervision on a consolidated basis the Authority is responsible.

F8 Regs. 10-10B substituted for reg. 10 (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 4

10B.—(1) This regulation applies where the Authority is a relevant competent authority and receives a report containing the risk assessment of a banking or investment group from the EEA consolidated supervisor.

(2) The Authority must submit to the EEA consolidated supervisor a report containing its risk assessment of each subsidiary of the group it has authorised.

(3) Subject to paragraph (7), the Authority must take all reasonable steps to reach a joint decision with the EEA consolidated supervisor and any other relevant competent authorities on the matters referred to in regulation 10A(2) within four months of the Authority receiving the report from the EEA consolidated supervisor.

(4) Where agreement on a joint decision cannot be reached, the Authority may request that the EEA consolidated supervisor consults the Committee of European Banking Supervisors.

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

(5) Subject to paragraph (7), if a joint decision has not been reached within four months of the Authority receiving the report from the EEA consolidated supervisor, the Authority must—

- (a) make a decision on the level of own funds required to be held by each subsidiary it has authorised, on an individual or, where appropriate, sub-consolidated basis, in accordance with Articles 123, 124 and 136(2) of the banking consolidation directive, taking into account the views of the EEA consolidated supervisor and any advice given by the Committee of European Banking Supervisors;
- (b) where the Authority's decision differs significantly from any advice given by the Committee of European Banking Supervisors, give reasons for the difference;
- (c) provide the EEA consolidated supervisor with a document containing its decision; and
- (d) recognise the decisions taken by the EEA consolidated supervisor and any other relevant competent authorities on the levels of own funds required to be held by the banking or investment group or its subsidiaries outside the United Kingdom, as determinative.

(6) The Authority may, in exceptional circumstances, make a fully reasoned written request to the EEA consolidated supervisor to update the decision on the level of own funds required to be held by any subsidiary of the group within the United Kingdom in accordance with article 136(2) of the banking consolidation directive.

(7) Where the Authority receives the report from the EEA consolidated supervisor before 1st January 2013, for “four months” in paragraphs (3) and (5) substitute “six months”.]

F8 Regs. 10-10B substituted for reg. 10 (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 4

11.—^{F9}(1) The Authority must take such steps as it considers appropriate—

- (a) in going-concern situations—
 - (i) to co-ordinate the gathering and dissemination of relevant or essential information;
 - (ii) to plan and co-ordinate supervisory activities in co-operation with other relevant competent authorities;
- (b) in preparation for and during emergency situations, including adverse developments in credit institutions or relevant investment firms or in financial markets—
 - (i) to co-ordinate the gathering and dissemination of relevant or essential information;
 - (ii) to plan and co-ordinate supervisory activities, including exceptional measures, preparation of risk assessments, implementation of contingency plans and communication to the public, in co-operation with other relevant competent authorities and, where necessary, central banks.]

(2) The Authority must provide a relevant competent authority with all information which the Authority considers to be essential for the exercise of the relevant competent authority's supervisory tasks.

(3) For the purposes of this regulation, information shall be regarded as essential if it could materially influence the assessment of the financial soundness of a credit institution, financial institution or investment firm in another EEA State. In particular essential information shall include:

- (a) the group structure of all major credit institutions or investment firms in a group;
- (b) the relevant competent authorities of the credit institutions or investment firms in a group;
- (c) procedures for the collection and verification of information from credit institutions or investment firms in a group;

- (d) adverse developments in credit institutions or investment firms or in other entities of a group, which could seriously affect other credit institutions or investment firms of that group;
- (e) major sanctions and exceptional measures taken by the EEA consolidated supervisor or any of the relevant competent authorities under the banking consolidation directive or under the banking consolidation directive as applied by Articles 2(2) and 37(1) of the capital adequacy directive.

F9 Reg. 11(1) substituted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 5

12.—(1) On request, the Authority must provide a relevant competent authority with all the information which the Authority considers to be relevant for the exercise of the relevant competent authority's supervisory tasks.

(2) In determining the extent of relevant information, the Authority must have regard to the importance of the subsidiary within the financial system of the EEA State in which it is authorised.

^{F10}**12A.**—(1) Where a credit institution or investment firm belongs to a group whose members include at least one other credit institution or investment firm which is established in another EEA state, the Authority must, acting on the basis of agreements entered into pursuant to regulation 15, establish a college of supervisors to—

- (a) facilitate its duties as an EEA consolidated supervisor; and
- (b) ensure appropriate co-ordination and co-operation with competent authorities outside the EEA where appropriate.

(2) The college of supervisors shall facilitate the EEA consolidated supervisor and the other relevant competent authorities carrying out the following tasks—

- (a) exchanging relevant information;
- (b) agreeing on the voluntary allocation of tasks and the voluntary delegation of responsibilities where appropriate;
- (c) determining supervisory examination programmes based on a risk assessment of the relevant banking or investment group in accordance with Article 124 of the banking consolidation directive;
- (d) increasing the efficiency of supervision by removing unnecessary duplication of supervisory requirements;
- (e) where appropriate, applying the prudential requirements under the banking consolidation directive on a consistent basis to all members of a banking or investment group;
- (f) planning and co-ordination of supervisory activities in preparation for and during emergency situations, taking into account the work of any other relevant bodies established for such purposes.

(3) The following bodies may participate in the college of supervisors—

- (a) the relevant competent authorities;
- (b) the competent authorities of a host EEA state in which a significant branch is established;
- (c) central banks;
- (d) competent authorities situated outside the EEA, provided that, in the opinion of the Authority and all relevant competent authorities, they are subject to confidentiality

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

requirements equivalent to the requirements of section 2 of Chapter 1 of Title V of the banking consolidation directive.

(4) The Authority must co-operate closely with the other competent authorities participating in the college of supervisors.

(5) The Authority must—

- (a) inform members in advance about the organisation of and agenda for any meeting of the college of supervisors, including any activities to be considered at that meeting;
- (b) decide which competent authorities may attend any meeting or participate in any activity;
- (c) chair any meeting;
- (d) inform members in a timely manner of the actions taken at any meeting or any activities carried out.

(6) When making a decision under paragraph (5)(b), the Authority must take into account the relevance to each competent authority of the supervisory activity to be planned or co-ordinated, and in particular—

- (a) the potential impact on the stability of the financial system in the EEA state concerned; and
- (b) the competent authority's obligations as the competent authority of the home EEA state under Article 42a(2) of the banking consolidation directive.

(7) Subject to confidentiality requirements under section 2 of Chapter 1 of Title V of the banking consolidation directive, the Authority must—

- (a) inform the Committee of European Banking Supervisors of the activities of the college of supervisors, including in emergency situations; and
- (b) provide the Committee with all information that is of particular relevance for the purposes of supervisory convergence.]

F10 Reg. 12A inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 6

The Authority's duties as EEA consolidated supervisor or national consolidated supervisor

13. Regulations 14, 15 and 16 apply where the Authority is either the EEA consolidated supervisor or the national consolidated supervisor.

[^{F11}14.—(1) Where an emergency situation, including adverse developments in financial markets, arises in the United Kingdom, which potentially jeopardises the market liquidity and the stability of the financial system in any other EEA state where an entity belonging to a banking or investment group has been authorised or where a significant branch is established, the Authority must notify as soon as practicable—

- (a) the European Central Bank;
- (b) the central bank of the EEA state; and
- (c) the central government departments of the EEA state which are responsible for legislation on the supervision of credit institutions, financial institutions, investment services and insurance companies.

(2) The Authority, in notifying any body under paragraph (1), must provide all information that is essential for the purpose of that body's tasks, which it is not prevented from disclosing.]

F11 Reg. 14 substituted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 7

15.—^[F12(1)] The Authority must, so far as necessary to facilitate and establish effective supervision and wherever possible, have written co-ordination and co-operation agreements in place with other competent authorities.

^[F13(2)] Where the agreements referred to in paragraph (1) relate to the establishment of colleges of supervisors, they shall be entered into by the Authority after consultation with the relevant competent authorities.]

F12 Reg. 15 renumbered to reg. 15(1) (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **8(1)**

F13 Reg. 15(2) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **8(2)**

16.—(1) Where the Authority is considering, in relation to a credit institution, an investment firm or a financial institution, whether to take action against that person which it considers will impose a major sanction or exceptional measure it must, before making a decision, consult the EEA consolidated supervisor, and where its decision would be of importance to a competent authority's supervisory tasks, that authority.

(2) Paragraph (1) does not apply where the Authority considers that—

- (a) there is an urgent need to act; or
- (b) such consultation may jeopardise the effectiveness of the decision referred to in paragraph (1).

(3) Where paragraph (1) does not apply by virtue of paragraph (2), the Authority must, without delay, inform the EEA consolidated supervisor and the other competent authorities referred to in paragraph (1) of the action that it has taken.

(4) In this regulation, the Authority may impose a major sanction or exceptional measure by—

- (i) varying a Part IV permission;
- (ii) exercising any of the powers conferred on it by section 148 of the Act;
- (iii) publishing a statement under section 205 of the Act (public censure);
- (iv) imposing a penalty in respect of a contravention under section 206 of the Act (financial penalties);
- (v) exercising any of its powers (other than its powers under section 381, 383 or 384(2)) under Part XXV of the Act (injunctions and restitution).

^[F14] Significant branches

16A.—(1) This regulation applies where a credit institution or relevant investment firm authorised in another EEA state has established a branch in the United Kingdom.

(2) The Authority may make a request to the competent authority of the home EEA state or, where appropriate, to the EEA consolidated supervisor (in which case a copy of the request shall be sent to the competent authority of the home EEA state), for the branch to be designated as significant.

(3) A request made under paragraph (2) must include reasons for considering the branch to be significant with particular regard to—

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

- (a) the likely impact of a suspension or closure of the operations of the credit institution or investment firm on market liquidity and the payment, clearing and settlement systems in the United Kingdom;
 - (b) the size and importance of the branch in terms of the number of clients within the context of the banking or financial system of the United Kingdom; and
 - (c) in relation to a branch of a credit institution, whether the market share of the branch in terms of deposits exceeds 2% in the United Kingdom.
- (4) The Authority must—
- (a) do everything in its power to reach a joint decision with the competent authority of the home EEA state and, where appropriate, the EEA consolidated supervisor, on the designation of the branch as significant; and
 - (b) if a joint decision is made, provide the competent authorities concerned with a document containing the fully reasoned joint decision.
- (5) If a joint decision has not been reached within two months of receipt of a request made by the Authority under paragraph (2), the Authority must—
- (a) make a decision within a further period of two months on whether or not to designate the branch as significant, taking into account any views and reservations of the competent authority of the home EEA state and, where appropriate, the EEA consolidated supervisor; and
 - (b) provide the competent authorities concerned with a document containing the fully reasoned decision.

16B.—(1) This regulation applies where the Authority is the competent authority of the home EEA state or the EEA consolidated supervisor and has received a request (or a copy of a request) from the competent authority of a host EEA state for a branch of a credit institution or relevant investment firm established in that state to be designated as significant.

(2) The Authority must do everything in its power to reach a joint decision with the competent authority of the host EEA state and, where appropriate, the EEA consolidated supervisor, on the designation of the branch as significant.

(3) Where a joint decision has not been reached and the competent authority of the host EEA state has made and notified to the Authority its own decision to designate the branch as significant, the Authority must recognise that decision as determinative.

16C.—(1) This regulation applies where the Authority is the competent authority of the home EEA state and a decision has been made to designate a branch of a credit institution or relevant investment firm established in another EEA state as significant.

(2) The Authority must—

- (a) in relation to the credit institution or relevant investment firm for which it is the home EEA state competent authority, communicate to the competent authority of the host EEA state the information referred to in regulation 11(3)(d) and (e);
- (b) in preparation for and during an emergency situation, plan and co-ordinate supervisory activities in cooperation with the competent authority of the host EEA state and if necessary its central bank.

16D.—(1) This regulation applies where the Authority is the competent authority of the home EEA state and decisions have been made to designate branches of a credit institution or relevant investment firm established in at least two other EEA states as significant.

(2) Where a college of supervisors has not been established in relation to the credit institution or investment firm whose branches have been designated as significant, the Authority must establish a college of supervisors acting on the basis of agreements entered into pursuant to regulation 15.

(3) Where a college of supervisors has been established by the Authority under paragraph (2), the requirements in regulation 12A(5) and (6) apply.

F14 Regs. 16A-16F inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 9

The Authority's general duties

16E. The Authority must in the exercise of its duties as the competent authority under the banking consolidation directive and the capital adequacy directive—

- (a) consider the potential impact of its decisions on the stability of the financial system in other EEA states, such consideration, in particular in emergency situations, to be based on information available at the relevant time;
- (b) participate in the activities of the Committee of European Banking Supervisors;
- (c) follow the guidelines, recommendations, standards and other measures agreed by the Committee of European Banking Supervisors, unless it considers that there are good reasons not to do so, in which case it must set out those reasons.

F14 Regs. 16A-16F inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 9

The Bank of England's general duties

16F. Where—

- (a) an entity belonging to a banking or investment group has been authorised, or a significant branch is established, in the United Kingdom; and
- (b) an emergency situation, including adverse developments in financial markets, arises, which potentially jeopardises the market liquidity and the stability of the financial system in the United Kingdom,

the Bank of England must notify as soon as practicable the national consolidated supervisor or, where appropriate, the EEA consolidated supervisor.]

F14 Regs. 16A-16F inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, 9

Disclosed information

17.—(1) Where the Authority is the EEA consolidated supervisor or a national consolidated supervisor and it needs information which has already been given to another competent authority, it must, wherever possible, obtain that information by requesting that the other competent authority which holds the information disclose it to the Authority.

(2) Where the Authority is the competent authority which has authorised a subsidiary of an EEA parent credit institution or a subsidiary of an EEA parent investment firm, and it needs information regarding the implementation of approaches and methodologies set out in the banking consolidation directive or the capital adequacy directive which may already be available to the EEA

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

consolidated supervisor, it must, wherever possible, obtain that information by requesting that the EEA consolidated supervisor discloses the information to the Authority.

Amendment of the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001

18. The Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001 ^{M7} are amended as follows.

Marginal Citations

M7 SI 2001/2509 as amended by SI 2003/2066 and SI 2004/1862.

19. In regulation 2, at the appropriate place, insert—

““capital adequacy directive” means Council Directive [2006/49/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the capital adequacy of investment firms and credit institutions;

“EEA consolidated supervisor” means the competent authority responsible, under Articles 71 or 72 of the banking consolidation directive or under Articles 71 or 72 of the banking consolidation directive as applied by Articles 2(2) and 37(1) of the capital adequacy directive, for the exercise of supervision of—

- (a) an EEA parent credit institution;
- (b) an EEA parent investment firm; or
- (c) credit institutions or investment firms controlled by an EEA parent financial holding company where the parent is authorised in a different EEA State to at least one of the subsidiary undertakings;

“EEA parent credit institution” means a parent credit institution in an EEA State which is not a subsidiary undertaking of another credit institution or investment firm authorised in any EEA State, or of a financial holding company set up in any EEA State;

“EEA parent investment firm” means a parent investment firm in an EEA State which is not a subsidiary undertaking of another credit institution or investment firm authorised in any EEA State or of a financial holding company set up in any EEA State;

“EEA parent financial holding company” means a parent financial holding company in an EEA State which is not a subsidiary undertaking of a credit institution or investment firm authorised in any EEA State or of another financial holding company set up in any EEA State;

“financial holding company” has the meaning given by Article 4(19) of the banking consolidation directive;

“relevant competent authority” means a competent authority which is not the EEA consolidated supervisor and which has authorised a subsidiary undertaking of an EEA parent credit institution, a subsidiary undertaking of an EEA parent investment firm or a subsidiary undertaking of an EEA parent financial holding company.”.

20. After regulation 7, insert—

“8.—(1) Where paragraph (3) applies, the requirement specified by paragraph (5) is prescribed for the purposes of section 183(2) of the Act and so must be complied with by the Authority before it determines whether to approve the change of control or give a warning notice under section 183(3) or 185(3) of the Act.

(2) Where paragraph (4) applies, the requirement specified by paragraph (5) is prescribed for the purposes of section 188(2) of the Act and so must be complied with by the Authority before it gives a warning notice under section 188(1) of the Act.

(3) This paragraph applies where—

- (a) a person (“the acquirer”) proposes to acquire or has acquired control or an additional kind of control over a UK authorised person in circumstances falling within section 178(1) or (2) of the Act;
- (b) that UK authorised person is, or is controlled by, an EEA parent credit institution or an EEA parent investment firm or is controlled by an EEA parent financial holding company which is subject to supervision on a consolidated basis in accordance with the banking consolidation directive or with the banking consolidation directive as applied by Articles 2(2) and 37(1) of the capital adequacy directive.

(4) This paragraph applies where—

- (a) a circumstance has arisen in respect of which the Authority may give a decision notice to a UK authorised person under section 187 of the Act;
- (b) that UK authorised person is, or is controlled by, an EEA parent credit institution or an EEA parent investment firm or is controlled by an EEA parent financial holding company which is subject to supervision on a consolidated basis in accordance with the banking consolidation directive or with the banking consolidation directive as applied by Articles 2(2) and 37(1) of the capital adequacy directive.

(5) The requirement specified by this paragraph is that the Authority must consult—

- (a) the EEA consolidated supervisor where it considers that the action it proposes to take constitutes a major sanction or an exceptional measure; and
- (b) a relevant competent authority where it considers that the action it proposes to take constitutes a major sanction or an exceptional measure which is of importance for the supervisory tasks of that relevant competent authority.

(6) Paragraphs (1) and (2) of this regulation do not apply where the Authority considers that—

- (a) there is an urgent need to act; or
- (b) such consultation may jeopardise the effectiveness of the actions referred to in paragraph (5),

but in such a case the Authority must, without delay, inform the EEA consolidated supervisor and the relevant competent authorities referred to in paragraph (5)(b) of the action that it has taken.”.

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

PART 4

CREDIT INSTITUTIONS AND EXTERNAL CREDIT ASSESSMENT INSTITUTIONS

Interpretation

21. In this Part—

“assessment methodology” means a methodology for assigning credit assessments;

[^{F15}“EC Regulation” means Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies^{F16}, as amended by Regulation (EU) No. 513/2011 of the European Parliament and of the Council of 11 May 2011 amending Regulation (EC) No. 1060/2009 on credit rating agencies];]

“ECAI” means an external credit assessment institution;

“exposure risk-weighting purposes” means the purposes of determining the risk weight of an exposure in accordance with Article 80 of the banking consolidation directive;

“securitisation risk-weighting purposes” means the purposes of determining the risk weight of a securitisation position in accordance with Article 96 of the banking consolidation directive.

F15 Words in reg. 21 inserted (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\)](#), regs. 1, **31(2)**

F16 Words in reg. 21 inserted (1.7.2011) by [The Credit Rating Agencies \(Amendment\) Regulations 2011 \(S.I. 2011/1435\)](#), regs. 1, **3**

Recognition for exposure risk-weighting purposes

22.—[^{F17}(1) [^{F18}Subject to paragraph (6) below,] the Authority must recognise an ECAI as eligible for exposure risk-weighting purposes only if the Authority is satisfied—

- (a) where the requirements of Article 2(3) of the EC Regulation apply to the ECAI, that the ECAI has complied with those requirements; and
- (b) taking into account the requirements set out in Schedule 1, that—
 - (i) the ECAI’s assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency; and
 - (ii) the ECAI’s credit assessments meet the requirements of credibility and transparency.]

(2) The Authority may recognise an ECAI as eligible for exposure risk-weighting purposes without carrying out its own evaluation process if the ECAI has been recognised as eligible for those purposes by a competent authority of another EEA State.

(3) Where the Authority recognises an ECAI as eligible for exposure risk-weighting purposes, it must determine, taking into account the requirements set out in Schedule 2, with which of the credit quality steps set out in Part 1 of Annex VI of the banking consolidation directive the relevant credit assessments of the ECAI are to be associated.

(4) The Authority's determinations must be objective and consistent.

(5) The Authority may recognise, without carrying out its own determination process, a determination of the kind mentioned in paragraph (3) which has been made by a competent authority of another EEA State.

[^{F19}(6) The Authority must consider that the ECAI's assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency for the purposes of paragraph (1)(b)(i) if the ECAI is registered as a credit rating agency in accordance with the EC Regulation.]

- F17** Reg. 22(1) substituted (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\)](#), regs. 1, **31(3)**
- F18** Words in reg. 22(1) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **10(a)**
- F19** Reg. 22(6) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), regs. 1, **10(b)**

Recognition for securitisation risk-weighting purposes

23.—(1) [^{F20}Subject to paragraph (9) below,] the Authority must recognise an ECAI as eligible for securitisation risk-weighting purposes only if the Authority is satisfied—

[^{F21}(za) where the requirements of Article 2(3) of the EC Regulation apply to the ECAI, that the ECAI has complied with those requirements;]

- (a) taking into account the requirements set out in Schedule 1, that—
- (i) the ECAI's assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency; and
 - (ii) the ECAI's credit assessments meet the requirements of credibility and transparency; and
- (b) that the ECAI has a demonstrated ability in the area of securitisation.

(2) A demonstrated ability in the area of securitisation may be evidenced by a strong market acceptance.

(3) The Authority may recognise an ECAI as eligible for securitisation risk-weighting purposes without carrying out its own evaluation process if the ECAI has been recognised as eligible for those purposes by a competent authority of another Member State.

(4) Where the Authority recognises an ECAI as eligible for securitisation risk-weighting purposes, it must determine with which of the credit quality steps set out in Part 4 of Annex IX of the banking consolidation directive the relevant credit assessments of the ECAI are to be associated.

(5) The Authority's determinations must be objective and consistent.

(6) The Authority must, when making its determination—

- (a) differentiate between the relative degrees of risk expressed by each assessment; and
- (b) consider—

- (i) quantitative factors (such as default rates and loss rates); and
- (ii) qualitative factors (such as the range of transactions assessed by the ECAI and the meaning of the credit assessment).

(7) The Authority must seek to ensure that securitisation positions to which the same risk weight is applied on the basis of credit assessments of eligible ECAIs are subject to equivalent degrees of credit risk and, for this purpose the Authority may modify its determination as to the credit quality step with which a credit assessment is to be associated.

(8) The Authority may recognise, without carrying out its own determination process, a determination of the kind mentioned in paragraph (4) which has been made by a competent authority of another EEA State.

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

[^{F22}(9) The Authority must consider that the ECAI's assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency for the purposes of paragraph (1)(a)(i) if the ECAI is registered as a credit rating agency in accordance with the EC Regulation.]

- F20** Words in [reg. 23\(1\)](#) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), [regs. 1, 11\(a\)](#)
- F21** [Reg. 23\(1\)\(za\)](#) inserted (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\)](#), [regs. 1, 31\(4\)](#)
- F22** [Reg. 23\(9\)](#) inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), [regs. 1, 11\(b\)](#)

Publishing recognition process and list of ECAIs

- 24.** The Authority must make publicly available—
- (a) an explanation of its recognition process, and
 - (b) a list of eligible ECAIs.

Revoking recognition

- 25.** The Authority may revoke the recognition of an ECAI—
- (a) where the ECAI is recognised in accordance with paragraph (1) of regulation 22 or, as the case may be, paragraph (1) of regulation 23, if the Authority considers that the requirements of the applicable paragraph are no longer met; and
 - (b) where an ECAI is recognised in accordance with paragraph (2) of regulation 22 or, as the case may be, paragraph (3) of regulation 23, if the condition in the applicable paragraph is no longer met.

PART 5

MISCELLANEOUS

Restriction on disclosure

- 26.—(1)** This regulation applies where—
- (a) a credit institution or investment firm does not meet a requirement of the banking consolidation directive, and
 - (b) by adopting a relevant measure, the Authority requires the credit institution or investment firm to take the necessary action or steps at an early stage to address the situation.
- (2)** A measure is relevant if its adoption—
- (a) obliges the credit institution or investment firm to hold own funds in excess of the minimum level laid down in Article 75 of the banking consolidation directive;
 - (b) reinforces the arrangements, processes, mechanisms and strategies implemented to comply with Articles 22 and 123 of the banking consolidation directive;
 - (c) requires the credit institution or investment firm to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;
 - (d) restricts or limits the business, operations or network of the credit institution or investment firm; or

- (e) requires the reduction of the risk inherent in the credit institution's or investment firm's activities, products and systems.
- (3) In such circumstances, sections 348, 349 and 352 of the Act apply to information about the adoption of the relevant measure—
 - (a) in the same way as they apply in relation to confidential information within the meaning of section 348(2) of the Act (subject to paragraph (4) of that section), and
 - (b) as if the Authority were a recipient of such information.

Functions of the Authority

27. Any function conferred by Part 2, 3 or 4 of these Regulations on the Authority (whether in the capacity of an EEA consolidated supervisor, a national consolidated supervisor, a relevant competent authority or otherwise) is to be treated as a function conferred on the Authority by a provision of the Act.

Service of notices

28. The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 ^{M8} applies to any document given under regulation 3, 5 or 9 as they apply to any notice, direction or document of any kind under the Act.

Marginal Citations

M8 [S.I. 2001/1420](#); amended by the [Enterprise Act 2002 \(c. 40\)](#) and [S.I. 2005/274](#).

Consequential amendments to primary and secondary legislation

29.—(1) Schedule 3 (which amends the Act in consequence of the adoption of the banking consolidation directive) has effect.

(2) Schedule 4 (which amends other primary legislation in consequence of the adoption of the banking consolidation directive) has effect.

(3) Schedule 5 (which amends the Financial Conglomerates and other Financial Groups Regulations 2004 ^{M9} in consequence of the adoption of the banking consolidation directive and the capital adequacy directive) has effect.

(4) Schedule 6 (which amends other secondary legislation in consequence of the adoption of the banking consolidation directive and the capital adequacy directive) has effect.

Marginal Citations

M9 [S.I. 2004/1862](#).

Dave Watts
Frank Roy
Two Lords Commissioners of Her Majesty's
Treasury

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

SCHEDULE 1

Regulations 22 and 23

Recognition of ECAIs

PART 1

Methodology

Objectivity

1. The Authority must verify that an ECAI's assessment methodology is rigorous, systematic, continuous and subject to validation based on historical experience.

Independence

2. The Authority must verify that an ECAI's assessment methodology is free from external political influences or constraints, and from economic pressures that may influence a credit assessment.

3. The Authority must assess the independence of an ECAI's assessment methodology according to factors such as the following—

- (a) ownership and organisation structure of the ECAI;
- (b) financial resources of the ECAI;
- (c) staffing and expertise of the ECAI;
- (d) corporate governance of the ECAI.

Ongoing review

4. The Authority must verify that an ECAI's credit assessments—

- (a) are subject to ongoing review, taking place after all significant events and at least annually; and
- (b) are responsive to changes in the financial conditions.

5. The Authority must verify that the assessment methodology for each market segment is established according to standards such as the following—

- (a) that backtesting has been established for at least one year;
- (b) that the Authority monitors the regularity of the review process by the ECAI;
- (c) that the Authority is able to receive from the ECAI information as to the extent of the ECAI's contacts with the senior management of the entities which it rates.

6. The Authority must take such steps as it considers necessary to ensure that it is promptly informed by an ECAI of any material changes in the methodology that the ECAI uses for assigning credit assessments.

Transparency and disclosure

7. The Authority must take such steps as it considers necessary to ensure that the principles of the methodology employed by an ECAI for the formulation of its credit assessments are publicly available so as to enable all potential users to decide whether they are derived in a reasonable way.

[^{F23}7A. For the purposes of recognition for securitisation risk-weighting, the Authority must take such steps as it considers necessary to ensure that, with regard to credit assessments relating to structured finance instruments, an ECAI will make publicly available an explanation of how the performance of pool assets affects its credit assessments.]

F23 Sch. 1 para. 7A inserted (31.12.2010) by The Capital Requirements (Amendment) Regulations 2010 (S.I. 2010/2628), regs. 1, 12

PART 2

Credit assessments

Credibility and market acceptance

8. The Authority must verify that the individual credit assessments of each ECAI are recognised in the market as credible and reliable by the users of such credit assessments.
9. The Authority must assess credibility according to factors such as the following—
 - (a) market share of the ECAI;
 - (b) revenues generated by the ECAI;
 - (c) financial resources of the ECAI;
 - (d) whether there is any pricing on the basis of the rating;
 - (e) whether at least two credit institutions use the individual credit assessments of the ECAI for—
 - (i) bond issuing, or
 - (ii) assessing credit risks.

Transparency and Disclosure

10. The Authority must verify that individual credit assessments are—
 - (a) accessible on equivalent terms to all credit institutions and investment firms having a legitimate interest in those individual credit assessments, and
 - (b) available to non-domestic parties on equivalent terms as to domestic credit institutions and investment firms having a legitimate interest in those individual credit assessments.

SCHEDULE 2

Regulation 22

Mapping

1.—(1) In order to differentiate between the relative degrees of risk expressed by each credit assessment, the Authority must consider quantitative factors such as the long-term default rate associated with all items assigned the same credit assessment.

(2) For recently established ECAIs and for those that have compiled only a short record of default data, the Authority must ask the ECAI what it believes to be the long-term default rate associated with all items assigned the same credit assessment.

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

2. In order to differentiate between the relative degrees of risk expressed by each credit assessment, the Authority must consider qualitative factors such as—

- (a) the pool of issuers that the ECAI covers;
- (b) the range of credit assessments that the ECAI assigns;
- (c) each credit assessment meaning;
- (d) the ECAI's definition of default.

3. The Authority must compare default rates experienced for each credit assessment of an ECAI and compare them with a benchmark built on the basis of default rates experienced by other ECAIs on a population of issuers which the Authority believes to present an equivalent level of credit risk.

4. Where the Authority believes that the default rates experienced for the credit assessment of an ECAI are materially and systematically higher than the benchmark, the Authority must assign a higher credit quality step in the credit quality assessment scale to the ECAI's credit assessment.

5. Where the Authority has increased the associated risk weight for a credit assessment of an ECAI, if the ECAI demonstrates that the default rates experienced for its credit assessment are no longer materially and systematically higher than the benchmark, the Authority may decide to restore the original credit quality step in the credit quality assessment scale for the ECAI's credit assessment.

SCHEDULE 3

Regulation 29(1)

Consequential amendments to the Act

1. In section 405 of the Act (directions in relation to third country decisions), subsection (5)(b) is repealed.

2.—(1) Schedule 3 to the Act (EEA passport rights) is amended as follows.

(2) For paragraph 2^{M10} substitute—

“2. ”The banking consolidation directive” means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.”.

(3) In paragraph 5, for paragraphs (b) and (c)^{M11} substitute—

- “(b) a credit institution (as defined in Article 4.1 of the banking consolidation directive) which is authorised (within the meaning of Article 4.2) by its home state regulator,
- (c) a financial institution (as defined in Article 4.5 of the banking consolidation directive) which is a subsidiary of the kind mentioned in Article 24 and which fulfils the conditions in that Article;”.

(4) In paragraph 24(1)(b), for “Article 19” substitute “ Article 24 ”.

Marginal Citations

M10 Paragraph 2 was substituted by the Banking Consolidation Directive (Consequential Amendments) Regulations 2000, S.I. 2000/2952.

M11 Paragraph 5(b) was substituted by S.I. 2000/2952.

3. In paragraph 8(6) of Schedule 11A^{M12} to the Act (transferable securities), for “Article 1.1(a)” substitute “ Article 4(1)(a) ”.

Marginal Citations

M12 [Schedule 11A](#) was inserted by [S.I. 2005/1433](#).

SCHEDULE 4

Regulation 29(2)

Consequential amendments to other primary legislation

Amendment of the Consumer Credit Act 1974

1. In subsection (1C) of section 25 of the Consumer Credit Act 1974 ^{M13} (licensee to be a fit person), for “Annex 1 to the banking consolidation directive ([2000/12/EC](#))” substitute “ Annex 1 to Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions ”.

Marginal Citations

M13 [1974 c.39](#); subsection 1C was amended by [S.I. 2001/3649](#).

Amendment of the Companies Act 1985

2.—(1) The Companies Act 1985 ^{M14} is amended as follows.

(2) In subsection (2)(b) of section 209 (interests to be disregarded), for “article 1(1)(a)” substitute “ Article 4(1)(a) ”.

(3) In the definition of “credit institution” in each of subsection (1) of section 262 (minor definitions) ^{M15} and subsection (3) of section 699A (credit and financial institutions to which the Bank Branches Directive ([89/117/EEC](#)) ^{M16} applies), for “article 1(1)(a) of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 4(1)(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”.

Marginal Citations

M14 [1985 c.5](#); subsection 2 was amended by [S.I. 2001/3649](#).

M15 [section 262](#) was amended by [S.I. 2000/2952](#) and [S.I. 2002/765](#).

M16 [section 699A](#) was inserted by [S.I. 1992/3179](#) and amended by [S.I. 2000/2952](#) and [S.I. 2002/765](#).

Amendment of the Building Societies Act 1986

3. In section 119 of the Building Societies Act 1986 ^{M17} (interpretation), for subsection (2B) substitute—

“(2B) In this Act “the Banking Consolidation Directive” means Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.”.

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

Marginal Citations

M17 1986 c.53; subsection (2B) was inserted by [S.I. 1996/1669](#) and amended by [S.I. 2002/2952](#) and [S.I. 2004/1862](#).

Amendment of the Bank of England Act 1998

4. In section 17 of the Bank of England Act 1998 ^{M18} (power to obtain information), for subsection (7C) substitute—

“(7C) ”Financial holding company” has the meaning given by Article 4(19) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.”.

Marginal Citations

M18 1998 c.11; subsection (7C) was inserted by [S.I. 2001/3649](#) and amended by [S.I. 2004/1862](#).

Amendment of the Criminal Justice Act 1993

5. Section 70 of the Criminal Justice Act 1993 ^{M19} (penalties under implementation regimes) is amended as follows—

- (a) in subsection (2)(a), for “Article 29 of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 43 of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”;
- (b) in subsection (2)(b), for “Articles 52, 55 and 56” substitute “ Articles 127(2) and (3), 137 and 139 to 142 ”.

Marginal Citations

M19 1993 c.36; [section 70](#) was amended by [S.I. 2000/2952](#).

Amendment of the Terrorism Act 2000

6.—(1) The Terrorism Act 2000 ^{M20} is amended as follows.

(2) In Part 1 of Schedule 3A (regulated sector and supervisory authorities), for paragraph 3(3) substitute—

“(3) The “Banking Consolidation Directive” means Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.”.

(3) In paragraph 6(1)(g) of Schedule 6 (financial information) ^{M21}, for “Directive [2000/12/EC](#) of the European Parliament and of the Council” substitute “ Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”.

Marginal Citations

M20 2000 c.11; [Schedule 3A](#) was inserted by the Anti-terrorism Crime and Security Act 2001 c.24.

M21 [Paragraph 6\(1\)\(g\)](#) of Schedule 6 was amended by [S.I. 2000/2952](#).

Amendment of the Proceeds of Crime Act 2002

7. In Part 1 of Schedule 9 to the Proceeds of Crime Act 2002^{M22} (regulated sector and supervisory authorities), for paragraph 3(3) substitute—

“(3) The “Banking Consolidation Directive” means Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.”.

Marginal Citations

M22 2002 c.29; [Schedule 9](#) was substituted by [S.I. 2003/3074](#).

SCHEDULE 5

Regulation 29 (3)

Consequential amendments to the Financial Conglomerates and Other Financial Groups Regulations 2004

1.—(1) The Financial Conglomerates and Other Financial Groups Regulations 2004^{M23} are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) for the definition of “the Banking Advisory Committee” substitute—

““the European Banking Committee” means the Committee established pursuant to a Commission Decision of 5 November 2003 establishing the European Banking Committee (No. [2004/10/EC](#)).”;

(b) in the definition of “the capital adequacy directive”, for “Council Directive [93/6/EC](#) of 15th March 1993” substitute “ Directive [2006/49/EC](#) of the European Parliament and of the Council of 14 June 2006 ”;

(c) in paragraph (b) of the definition of “directive requirement”, for “Article 56a” substitute “ Article 143 ” and for “Article 7(2)” substitute “ Article 2 and 37(1) ”; and

(d) in the definition of “regulated entity”—

(i) in sub-paragraph (a), for “Article 1(1)” substitute “ Article 4(1) ”;

(ii) in sub-paragraph (d), for “including the undertakings referred to in Article 2(4)” substitute “ including the undertakings referred to in Article 3(1)(b) ”.

(3) In regulation 9 (supervision of third-country groups)—

(a) in paragraph (1), for “Article 56a” substitute “ Article 143 ” and for “Article 52” substitute “ Articles 71, 72 and 73(1) and (3) ”;

(b) in paragraph (1)(b), for “the Banking Advisory Committee” substitute “ the European Banking Committee ” and for “the second paragraph of Article 56a” substitute “ the first sub-paragraph of Article 143(2) ”;

(c) in paragraph (2), for “the fifth paragraph of Article 56a” substitute “ Article 143(3) ”; and

(d) in paragraphs (3)(a) and (b), wherever it appears, for “Article 53” substitute “ Articles 125 or 126 ”.

(4) In regulation 10 (supervision of third-country groups subject to the capital adequacy directive)

(a) for paragraph (1)(a) substitute—

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

- “(a) the Authority is, for the purposes of Article 143 of the banking consolidation directive, as applied by Articles 2(1) and 37(1) of the capital adequacy directive (supervision) verifying whether a credit institution or an investment firm in a third-country group is subject to supervision by a third-country competent authority which is equivalent to that governed by the principles laid down in Articles 2(1) and 37(1) of the capital adequacy directive; or”;
- (b) in paragraph (1)(b), for “Article 56a” substitute “ Article 143 ” and for “Article 7(3)” wherever it appears substitute “ Articles 2(2) and 37(1) ”;
- (c) in paragraph (2)(b), for “the Banking Advisory Committee” substitute “ the European Banking Committee ” and for “the second paragraph of Article 56a” substitute “ Article 143(2) ”;
- (d) in paragraph (3), for “the fifth paragraph of Article 56a” substitute “ Article 143(3) ” and for “Article 7” substitute “ Articles 2 and 37(1) ”; and
- (e) in paragraph (4)(a) and (b), for “Article 53” wherever it appears substitute “ Articles 125 or 126 ” and for “Article 7” wherever it appears substitute “ Articles 2 and 37(1) ”.
- (5) In regulation 15(1)(b), for “Articles 54, 55a or 56” substitute “ Articles 133, 134, 136, 138, 141, 142 or 143 ” and for “article 7(2) or (3)” substitute “ Article 2(1) or (2) and 37(1) ”.

Marginal Citations

M23 [S.I. 2004/1862](#).

SCHEDULE 6

Regulation 29(4)

Consequential amendments to other secondary legislation

Amendment of the Cash Ratio Deposits (Eligible Liabilities) Order 1998

1. In article 2(3) of the Cash Ratio Deposits (Eligible Liabilities) Order 1998 ^{M24}, for “Directive [2000/12/EC](#) of the European Parliament and of the Council (as last amended by Directive [2002/87/EC](#) of the European Parliament and of the Council)” substitute “ Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions ”.

Marginal Citations

M24 [S.I. 1998/1130](#); as amended by [S.I. 2000/2952](#) and [S.I. 2004/1862](#).

Amendment of the Cross-Border Credit Transfers Regulations 1999

2. In the definition of “credit institution” in regulation 2(1) of the Cross-Border Credit Transfers Regulations 1999 ^{M25}, for “Article 1(1)(a) of Directive [2000/12/EC](#) of the European Parliament and of the Council” substitute “ Article 4(1)(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions ”.

Marginal Citations

M25 [S.I. 1999/1876](#).

Amendment of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999

3. For the definition of “credit institution” in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 ^{M25} substitute—

““credit institution” means a credit institution as defined in Article 4(1)(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, including the bodies set out in the list in Article 2;”.

Marginal Citations

M26 [S.I. 1999/2979](#); as amended by [S.I. 2000/2952](#) and [S.I. 2002/765](#).

Amendment of the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000

4. In paragraph 1(1) of the Schedule to the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000 ^{M26}—

- (a) in the definition of “credit institution”, for “Article 1(1)(a) of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 4(1)(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”;
- (b) in the definition of “financial institution”, for “Article 1 of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 4(5) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”.

Marginal Citations

M27 [S.I. 2000/262](#); as amended by [S.I. 2000/2952](#) and [S.I. 2002/765](#).

Amendment of the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000

5. In paragraph 1 of the Schedule to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000 ^{M27}—

- (a) in the definition of “credit institution”, for “Article 1(1)(a) of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 4(1)(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”;
- (b) in the definition of “financial institution”, for “Article 1 of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 4(5) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”.

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

Marginal Citations

M28 [S.I. 2000/309](#); as amended by [S.I. 2000/2952](#) and [S.I. 2002/765](#).

Amendment of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

6.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ^{M29} is amended as follows.

(2) In article 9C(2) ^{M30}, for “Article 1(1)(a)” substitute “ Article 4(1)(a) ”.

(3) In paragraph (g)(iii) of Schedule 3, for “Directive [93/6/EEC](#)” substitute “ Directive [2006/49/EC](#) ”.

Marginal Citations

M29 [S.I. 2001/544](#).

M30 [Article 9C2](#) was inserted by [S.I. 2002/682](#).

Amendment of the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001

7. In the definition of “credit institution” in regulation 1(2) of the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001 ^{M31}, for “Article 1” substitute “ Article 4(1) ”.

Marginal Citations

M31 [S.I. 2001/1783](#).

Amendment of the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

8.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 ^{M32} are amended as follows.

(2) In the definition of “directive restrictions” in regulation 2 for “article 30 of the banking consolidation directive” substitute “ Section 2 of Chapter 1 of Title V of the banking consolidation directive ”.

(3) In regulation 9(2)(b), for “article 30.3” substitute “ article 46 ”.

(4) In regulation 9(3)(b)(ii), for “article 29” substitute “ article 43 ”.

Marginal Citations

M32 [S.I. 2001/2188](#).

Amendment of the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001

9.—(1) The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001^{M33} are amended as follows.

(2) In regulation 2(3)(d), for “the solvency ratio of the firm (calculated in accordance with the banking consolidation directive)” substitute “ the sum of the capital requirements under Article 75 of the banking consolidation directive ”.

(3) For regulation 2(4)(d) substitute—

“(d) the sum of the capital requirements under Article 75 of the banking consolidation directive of the firm's parent undertaking.”.

Marginal Citations

M33 [S.I. 2001/2511](#); as amended by [S.I. 2002/765](#).

Amendment of the Financial Services and Markets Act 2000 (Gibraltar) Order 2001

10. In article 4(4) of the Financial Services and Markets Act 2000 (Gibraltar) Order 2001^{M34}, for “Article 19” substitute “ Article 24 ”.

Marginal Citations

M34 [S.I. 2001/3084](#).

Amendment of the Financial Services and Markets Act 2000 (Confidential Information) (Bank of England) (Consequential Provisions) Order 2001

11. In each of articles 4(2) and 6(4) of the Financial Services and Markets Act 2000 (Confidential Information) (Bank of England) (Consequential Provisions) Order 2001^{M35}, for “Article 29” substitute “ Article 43 ”.

Marginal Citations

M35 [S.I. 2001/3648](#).

Amendment of the Uncertified Securities Regulations 2001

12. In paragraph 1(1)(b) of Schedule 2 to the Uncertified Securities Regulations 2001^{M36}, for “Directive [2000/12/EC](#) of the European Parliament and of the Council” substitute “ Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions ”.

Marginal Citations

M36 [S.I. 2001/3755](#).

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

Amendment of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002

13. In article 9 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002 ^{M37}—

- (a) for “Article 1” in paragraph (4) substitute “ Article 4(2) ”; and
- (b) for “Article 1(1)(a)” in paragraph (9) substitute “ Article 4(1)(a) ”.

Marginal Citations

M37 [S.I. 2002/682](#).

Amendment of the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003

14. In the definition of “credit institution” in paragraph 1 of the Schedule to the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003 ^{M38}, for “Article 1 of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 4(1) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”.

Marginal Citations

M38 [S.I. 2003/1370](#).

Amendment of the Money Laundering Regulations 2003

15. For the definition of “Banking Consolidation Directive” in regulation 2 of the Money Laundering Regulations 2003 ^{M39} substitute—

““the Banking Consolidation Directive”.....means Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions;”.

Marginal Citations

M39 [S.I. 2003/3075](#).

Amendment of the Conduct of Employment Agencies and Employment Businesses Regulations 2003

16. In the definition of “credit institution” in regulation 25(1) of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 ^{M40}, for “article 1(1)(a) of Directive [2000/12/EC](#) of the European Parliament and of the Council” substitute “ Article 4(1)(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”.

Marginal Citations

M40 [S.I. 2003/3319](#).

Amendment of the Credit Institutions (Reorganisation and Winding Up) Regulations 2004

17.—(1) The Credit Institutions (Reorganisation and Winding Up) Regulations 2004 ^{M41} are amended as follows.

(2) In regulation 2(1)—

(a) for the definition of “banking consolidation directive” substitute—

““banking consolidation directive” means Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions;”;

(b) in the definition of “branch”, for “Article 1(3)” substitute “ Article 4(3) ”;

(c) in the definition of “EEA credit institution”, for “Article 1(1) and (3) and subject to the conditions in Article 2(3)” substitute “ Article 4(1) and (3) and subject to the exclusion of the undertakings referred to in Article 2 ”; and

(d) in the definition of “EEA regulator”, for “Article 1(4)” substitute “ Article 4(4) ”.

(3) In the definition of “relevant EEA State” in regulation 5(6), for “Article 4” substitute “ Article 6 ”.

Marginal Citations

M41 [S.I. 2004/1045](#).

Amendment of the Building Societies Act 1986 (Modification of the Lending Limit and Funding Limit Calculations) Order 2004

18. In the definition of “credit institution” in article 2(1) of the Building Societies Act 1986 (Modification of the Lending Limit and Funding Limit Calculations) Order 2004 ^{M42}, for “article 1(1) of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “ Article 4(1) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 ”.

Marginal Citations

M42 [S.I. 2004/3200](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, in part, Directive [2006/48/EC](#) of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions (the Banking Consolidation Directive) and Directive [2006/49/EC](#) of the European Parliament and of the Council on the capital adequacy of investment firms and credit institutions (the Capital Adequacy Directive). These two Directives recast and replace Directives [2000/12/EC](#) and [93/6/EEC](#).

Status: Point in time view as at 01/07/2011.

Changes to legislation: There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked). (See end of Document for details)

A Transposition Table setting out how the elements of the Banking Consolidation Directive and the Capital Adequacy Directive will be transposed into UK law is available from the Financial Stability and Regulatory Policy Team, HM Treasury, 1 Horseguards Road, London, SW1A 2HQ. The Transposition Table is also available on HM Treasury's website (www.hm-treasury.gov.uk). A Regulatory Impact Assessment has been produced for this instrument and has been deposited in both Houses of Parliament. It is available either from the above address or on HM Treasury's website.

The Banking Consolidation Directive and Capital Adequacy Directive introduce a new prudential supervisory framework in the European Union which reflects the international Basel 2 rules on capital measurement and capital standards agreed by the Basel Committee on Banking Supervision in 2004. The requirements contained in the Banking Consolidation Directive and the Capital Adequacy Directive apply to all credit institutions and those investment firms defined by Article 4(1) of the Market in Financial Instruments Directive (2004/39/EC).

The Banking Consolidation Directive includes provisions regarding: certain procedural requirements for the prudential supervision of pan-European groups (Article 129); co-operation between competent authorities (Article 130 – 132) and the recognition of external credit assessment institutions by the competent authorities so that their credit assessments may be used to calculate capital requirements (Articles 81, 82, 97, and 98 and parts of Annexes VI and IX). These Regulations impose obligations on the Financial Services Authority, the competent authority for the United Kingdom, for the purpose of implementing these requirements.

Part 2 of these Regulations makes provision in relation to applications by pan-European groups for permission to calculate their capital requirements in accordance with one of the advanced methods allowed by the Banking Consolidation Directive.

Part 3 of the Regulations makes provision for co-operation between competent authorities.

Part 4 of the Regulations makes provision for the Financial Services Authority to recognise External Credit Assessment Institutions (ECAIs) as eligible, so that their credit assessments may be used by credit institutions and those investment firms defined by Article 4(1) of the Market in Financial Instruments Directive to calculate their capital requirements.

Part 5 of the Regulations contains miscellaneous provisions relating to restrictions on disclosure required by Article 136 of the Banking Consolidation Directive (regulation 26), functions of the Financial Services Authority (regulation 27) and the service of notices (regulation 28).

Schedules 1 and 2 to the Regulations contain provisions relating to the recognition of ECAIs.

Schedules 3 to 6 contain amendments to primary and secondary legislation made in consequence of the adoption of the Banking Consolidation Directive and the Capital Adequacy Directive.

Status:

Point in time view as at 01/07/2011.

Changes to legislation:

There are currently no known outstanding effects for the The Capital Requirements Regulations 2006 (revoked).