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STATUTORY INSTRUMENTS

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**1992 No. 3218**

**The Banking Coordination (Second  
Council Directive) Regulations 1992**

**PART IV**

**AMENDMENTS OF BANKING ACT**

*Interpretation*

**Meaning of “controller” and “associate”**

**43.**—(1) In paragraph (c) of subsection (3) of section 105 of the Banking Act (meaning of “director, controller” etc.), for the words from “either alone” to the end there shall be substituted the words “satisfies the requirements of this paragraph”; and at the end of that subsection there shall be inserted the words “and

(e) a person who is, or would be if he were an undertaking, a parent undertaking of the institution.”

(2) For subsection (4) of that section there shall be substituted the following subsections—

“(3A) A person satisfies the requirements of subsection (3)(c) above in relation to an institution if, either alone or with any associate or associates—

- (a) he holds 10 per cent. or more of the shares in the institution or another institution of which it is a subsidiary undertaking;
- (b) he is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power at any general meeting of the institution or another institution of which it is such an undertaking; or
- (c) he is able to exercise a significant influence over the management of the institution or another institution of which it is such an undertaking by virtue of—
  - (i) a holding of shares in; or
  - (ii) an entitlement to exercise, or control the exercise of, the voting power at any general meeting of,

the institution or, as the case may be, the other institution concerned;

and in this subsection 'share' has the same meaning as in Part VII of the Companies Act 1985 or Part VIII of the Companies (Northern Ireland) Order 1986.

(4) A person who is a controller of an institution by virtue of subsection (3)(c) above is in this Act referred to as a "shareholder controller" of the institution; and in this Act—

- (a) a "minority shareholder controller" means a shareholder controller not falling within paragraph (a) or (b) of subsection (3A) above;

- (b) a "10 per cent. shareholder controller" means a shareholder controller in whose case the percentage referred to in the relevant paragraph is 10 or more but less than 20;
- (c) a "20 per cent. shareholder controller" means a shareholder controller in whose case that percentage is 20 or more but less than 33;
- (d) a "33 per cent. shareholder controller" means a shareholder controller in whose case that percentage is 33 or more but less than 50;
- (e) a "50 per cent. shareholder controller" means a shareholder controller in whose case that percentage is 50 or more;
- (f) a "majority shareholder controller" means a shareholder controller in whose case that percentage is 50 or more but less than 75; and
- (g) a "principal shareholder controller" means a shareholder in whose case that percentage is 75 or more;

and in this subsection "the relevant paragraph", in relation to a shareholder controller, means whichever one of paragraphs (a) and (b) of subsection (3A) above gives the greater percentage in his case."

- (3) After subsection (5) of that section there shall be inserted the following subsection—

“(5A) A person who is a controller of an institution by virtue of subsection (3)(e) above is in this Act referred to as a 'parent controller' of the institution.”

- (4) For subsections (9) and (10) of that section there shall be substituted the following subsections—

“(9) In this Act 'associate', in relation to a person entitled to exercise or control the exercise of voting power in relation to, or holding shares in, an undertaking, means—

- (a) the wife or husband or son or daughter of that person;
- (b) the trustees of any settlement under which that person has a life interest in possession or, in Scotland, a life interest;
- (c) any company of which that person is a director;
- (d) any person who is an employee or partner of that person;
- (e) if that person is a company—
  - (i) any director of that company;
  - (ii) any subsidiary undertaking of that company; and
  - (iii) any director or employee of any such subsidiary undertaking; and
- (f) if that person has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in that undertaking or body corporate or under which they undertake to act together in exercising their voting power in relation to it, that other person.

- (10) For the purposes of subsection (9) above—

'son' includes stepson and "daughter" includes stepdaughter;

'settlement' includes any disposition or arrangement under which property is held in trust.”