

SCHEDULE 1

Regulation 2(1).

ANNEX TO THE SECOND COUNCIL DIRECTIVE

“ANNEX

LIST OF ACTIVITIES SUBJECT TO MUTUAL RECOGNITION

1. Acceptance of deposits and other repayable funds from the public.
2. Lending (1).
3. Financial leasing.
4. Money transmission services.
5. Issuing and administering means of payment (e.g. credit cards, travellers' cheques and bankers' drafts).
6. Guarantees and commitments.
7. Trading for own account or for account of customers in:
 - (a) money market instruments (cheques, bills, CDs, etc.);
 - (b) foreign exchange;
 - (c) financial futures and options;
 - (d) exchange and interest rate instruments;
 - (e) transferable securities.
8. Participation in securities issues and the provision of services relating to such issues.
9. Advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings.
10. Money broking.
11. Portfolio management and advice.
12. Safekeeping and administration of securities.
13. Credit reference services.
14. Safe custody services.
 - (1) Including inter alia:
 - consumer credit,
 - mortgage credit,
 - factoring, with or without recourse,
 - financing of commercial transactions (including forfaiting).”

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SCHEDULE 2

Regulation 3(8).

REQUIREMENTS AS RESPECTS EUROPEAN INSTITUTIONS

Requirements for carrying on activities etc.

1.—(1) In relation to the carrying on of a home-regulated activity by the provision of services, the requirements of this paragraph are that the institution has given to the relevant supervisory authority in its home State a notice in accordance with paragraph 2 below.

- (2) In relation to the establishment of a branch, the requirements of this paragraph are—
- (a) that the institution has given to the relevant supervisory authority in its home State a notice in accordance with paragraph 2 below;
 - (b) that the Bank has received from that authority a notice in accordance with paragraph 3 below; and
 - (c) that either—
 - (i) the Bank has informed the institution that it may establish the branch; or
 - (ii) the period of two months beginning with the day on which the Bank received the notice mentioned in paragraph (b) above has elapsed.

2. A notice given by an institution to the relevant supervisory authority in its home State is given in accordance with this paragraph if it states—

- (a) the United Kingdom to be a member State in which the institution proposes to carry on home-regulated activities;
- (b) whether the institution intends to establish a branch in the United Kingdom;
- (c) if the notice states that the institution does not intend to establish such a branch, the home-regulated activities in relation to which the notice is given; and
- (d) if the notice states that the institution intends to establish such a branch, the requisite details of the branch.

3.—(1) A notice given in respect of a European authorised institution or quasi-European authorised institution by the relevant supervisory authority in its home State is in accordance with this paragraph if it—

- (a) certifies that the institution is a credit institution which is for the time being authorised to act as such an institution by the authority;
- (b) contains the information stated in the institution's notice; and
- (c) if the institution intends to establish a branch in the United Kingdom, contains—
 - (i) a statement of the amount of the institution's own funds and the solvency ratio of the institution (calculated in accordance with the Solvency Ratio Directive⁽¹⁾); and
 - (ii) details of any deposit guarantee scheme which is intended to secure the protection of depositors in the branch.

(2) A notice given in respect of a European subsidiary or quasi-European subsidiary by the relevant supervisory authority in its home State is in accordance with this paragraph if it—

- (a) certifies that the institution is a financial institution which is a 90 per cent. subsidiary undertaking of a European institution incorporated in or formed under the law of that State;

(1) Council Directive 89/647/EEC (OJ No. L386, 30.12.89, p.14), as amended by Commission Directive 91/31/EEC (OJ No. L17, 23.1.91, p.20).

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- (b) certifies that the conditions mentioned in regulation 3(6) of these Regulations are fulfilled in relation to the institution;
- (c) certifies that the institution's business is being conducted in a prudent manner;
- (d) contains the information stated in the institution's notice; and
- (e) if the institution intends to establish a branch in the United Kingdom, contains a statement of the amount of the institution's own funds and the consolidated solvency ratio of the institution's parent undertaking (calculated in accordance with the Solvency Ratio Directive).

(3) The Bank shall as soon as practicable send a copy of any notice received by it in accordance with this paragraph, and a note of the date of its receipt, to every other authority which it knows is a connected UK authority.

Requirements for changing requisite details of branch

4.—(1) Subject to sub-paragraph (2) below, the requirements of this paragraph are—

- (a) that the institution has given a notice to the Bank, and to the relevant supervisory authority in its home State, stating the details of the proposed change;
- (b) that the Bank has received from that authority a notice stating those details; and
- (c) that either the Bank has informed the institution that it may make the change, or the period of one month beginning with the day on which it gave the Bank the notice mentioned in paragraph (a) above has elapsed.

(2) In the case of a change occasioned by circumstances beyond the institution's control, the requirements of this paragraph are that the institution has, as soon as practicable (whether before or after the change), given a notice to the Bank, and to the relevant supervisory authority in its home State, stating the details of the change.

(3) The Bank shall as soon as practicable send a copy of any notice received by it in accordance with this paragraph, and a note of the date of its receipt, to every other authority which it knows is a connected UK authority.

Cancellation of compliance with certain requirements

5.—(1) The Bank may, on an application by a European subsidiary, direct that any compliance with the requirements of paragraph 1 above in relation to—

- (a) its carrying on of any activity; or
- (b) its establishment of a branch,

shall cease to have effect as from such date as may be specified in the direction.

(2) The Bank shall not give a direction under this paragraph unless—

- (a) the applicant has given notice of the application to the relevant supervisory authority in its home State; and
- (b) the Bank has agreed with that authority that the direction should be given.

(3) The date specified in a direction under this paragraph—

- (a) shall not be earlier than the date requested in the application; but
- (b) subject to that, shall be such date as may be agreed between the Bank and the relevant supervisory authority.

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(4) The Bank shall as soon as practicable send a copy of any direction given under this paragraph to the applicant, to the relevant supervisory authority and to every other authority which it knows is a connected UK authority.

SCHEDULE 3

Regulation 9(7).

PROHIBITIONS AND RESTRICTIONS BY THE BANK

Preliminary

1. In this Schedule—

“prohibition” means a prohibition under regulation 9 of these Regulations;

“restriction” means a restriction under regulation 10 of these Regulations.

Notice of prohibition or restriction in non-urgent cases

2.—(1) Subject to paragraph 3 below, where the Bank proposes, in relation to a European institution—

(a) to impose a prohibition;

(b) to impose a restriction; or

(c) to vary a restriction otherwise than with the agreement of the institution,

the Bank shall give notice of its proposal to the institution and to every other authority which it knows is a connected UK authority.

(2) If the proposed action is within paragraph (b) or (c) of sub-paragraph (1) above, the notice under that sub-paragraph shall specify the proposed restriction or, as the case may be, the proposed variation.

(3) A notice under sub-paragraph (1) above shall state the grounds on which the Bank proposes to act and give particulars of the institution’s rights under sub-paragraph (5) below.

(4) Where a proposed restriction consists of or includes a condition requiring the removal of any person as director, controller or manager, the Bank shall give that person a copy of the notice mentioned in sub-paragraph (1) above, together with a statement of his rights under sub-paragraph (5) below.

(5) An institution which is given a notice under sub-paragraph (1) above and a person who is given a copy under sub-paragraph (4) above may, within the period of 14 days beginning with the day on which the notice was given, make representations to the Bank.

(6) After giving a notice under sub-paragraph (1) above and taking into account any representations made under sub-paragraph (5) above, the Bank shall decide whether—

(a) to proceed with the action proposed in the notice;

(b) to take no further action;

(c) if the proposed action was the imposition of a prohibition, to impose a restriction instead of or in addition to the prohibition; or

(d) if the proposed action was the imposition or variation of a restriction, to impose a different restriction or make a different variation.

(7) The Bank shall give—

(a) the institution;

(b) any such person as is mentioned in sub-paragraph (4) above; and

(c) the relevant supervisory authority in the institution's home State,

written notice of its decision and, except where the decision is to take no further action, the notice shall state the reasons for the decision and give particulars of the rights conferred by sub-paragraph (11) below and section 27 of the Banking Act⁽²⁾.

(8) A notice under sub-paragraph (7) above shall be given—

(a) within the period of 28 days beginning with the day on which the notice under sub-paragraph (1) above was given; or

(b) where a reply of the relevant supervisory authority to a notice under regulation 11(3) of these Regulations was received during the second half of that period, within the period of 14 days beginning with the day on which that reply was so received;

and where such a reply was so received, the Bank shall give notice of that fact to the institution and to any such person as is mentioned in sub-paragraph (4) above.

(9) If no notice under sub-paragraph (7) above is given within the period mentioned in sub-paragraph (8) above, the Bank shall be treated as having at the end of that period given a notice under that sub-paragraph to the effect that no further action is to be taken.

(10) A notice under sub-paragraph (7) above imposing a prohibition or a restriction on an institution or varying a restriction shall, subject to section 27(4) of the Banking Act, have the effect of prohibiting the institution from accepting deposits in the United Kingdom or restricting its activities or varying the restriction in the manner specified in the notice.

(11) Where the decision notified under sub-paragraph (7) above is to impose or vary a restriction otherwise than as stated in the notice given under sub-paragraph (1) above—

(a) the institution concerned; and

(b) in the case of a European institution, the relevant supervisory authority,

may, within the period of seven days beginning with the day on which the notice was given under sub-paragraph (7) above, make written representations to the Bank with respect to the restriction or variation and the Bank may, after taking those representations into account, alter the restriction.

(12) The Bank may omit from the copy given to a person under sub-paragraph (4) above and from a notice given to him under sub-paragraph (7) above any matter which does not relate to him.

Notice of prohibition or restriction in urgent cases

3.—(1) No notice need be given in accordance with paragraph 2 above in respect of—

(a) the imposition of a prohibition;

(b) the imposition of a restriction; or

(c) the variation of a restriction otherwise than with the agreement of the institution concerned, in any case in which the Bank considers that the prohibition or restriction should be imposed, or the variation should be made, as a matter of urgency.

(2) In any such case the Bank may by written notice to the institution impose the prohibition or restriction or make the variation.

(3) Any such notice shall state the reasons for which the Bank has acted and particulars of the rights conferred by sub-paragraph (5) below and by section 27 of the Banking Act.

(2) 1987 c. 22.

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(4) Where a restriction consists of or includes a condition requiring the removal of any person as director, controller or manager, the Bank shall give that person a copy of the notice mentioned in sub-paragraph (2) above, together with a statement of his rights under sub-paragraph (5) below.

(5) An institution to which a notice is given under this paragraph and a person who is given a copy of it by virtue of sub-paragraph (4) above may within the period of 14 days beginning with the day on which the notice was given make representations to the Bank.

(6) After giving a notice under sub-paragraph (2) above and taking into account any representations made in accordance with sub-paragraph (5) above, the Bank shall decide whether—

- (a) to confirm or rescind its original decision; or
- (b) to impose a different restriction or to vary the restriction in a different manner.

(7) The Bank shall, within the period of 28 days beginning with the day on which the notice was given under sub-paragraph (2) above, give—

- (a) the institution; and
- (b) the relevant supervisory authority in the institution's home State,

written notice of its decision under sub-paragraph (6) above and, except where the decision is to rescind the original decision, the notice shall state the reasons for the decision.

(8) Where the notice under sub-paragraph (7) above is of a decision to take the action specified in sub-paragraph (6)(b) above, the notice under sub-paragraph (7) shall have the effect of imposing the prohibition or restriction, or making the variation specified in the notice, with effect from the date on which it is given.

Appeals

4.—(1) Section 27 of the Banking Act (rights of appeal) shall have effect as if—

- (a) the decisions mentioned in subsection (1) included a decision of the Bank to impose a prohibition or impose or vary a restriction; and
- (b) the reference in subsection (4) to the revocation of an institution's authorisation included a reference to the imposition of a prohibition on the institution.

(2) Section 29 of that Act (determination of appeals) shall have effect as if in subsection (2)(a)—

- (a) the reference to revoking an authorisation included a reference to imposing a prohibition; and
- (b) the reference to restricting an authorisation instead included a reference to imposing instead a restriction.

(3) That section shall also have effect as if it included provision that, in the case of any appeal by a European institution, notice of the tribunal's determination, together with a statement of its reasons, shall be given to the relevant supervisory authority in the institution's home State.

Statement of principles

5.—(1) The Bank shall, as soon as practicable after the coming into force of these Regulations, publish in such manner as it thinks appropriate a statement of the principles in accordance with which it is acting or proposing to act in exercising its power to impose a prohibition on or to restrict the listed activities of a European institution.

(2) Subsection (2) of section 16 of the Banking Act (statement of principles) shall apply for the purposes of sub-paragraph (1) above as it applies for the purpose of subsection (1) of that section.

SCHEDULE 4

Regulation 15(5).

PROHIBITIONS BY THE BOARD

Notice of prohibition

1.—(1) Where the Board proposes—

- (a) to impose a prohibition on a European institution under regulation 15 of these Regulations; or
- (b) to refuse an application made by a European institution under paragraph (3) of that regulation,

it shall give the institution on which it proposes to impose the prohibition, or whose application it proposes to refuse, written notice of its intention to do so, stating the reasons for which it proposes to act.

(2) In the case of a proposed prohibition the notice shall state the date on which it is proposed that the prohibition should take effect and, in the case of a limited prohibition, its proposed duration.

(3) Where the reasons stated in a notice under sub-paragraph (1) above relate specifically to matters which—

- (a) refer to a person identified in the notice other than the institution concerned; and
- (b) are in the opinion of the Board prejudicial to that person in any office or employment,

the Board shall, unless it considers it impracticable to do so, serve a copy of the notice on that person.

(4) A notice under sub-paragraph (1) above shall give particulars of the right to require the case to be referred to the Financial Services Tribunal under section 97 of the Financial Services Act.

(5) Where a case is not required to be referred to that Tribunal by an institution on whom a notice is served under sub-paragraph (1) above, the Board shall, at the expiration of the period within which such a requirement can be made—

- (a) give that institution written notice of the prohibition or refusal; or
- (b) give that institution written notice that the prohibition is not to be imposed or, as the case may be, written notice of the grant of the application,

and the Board may give public notice of any decision notified by it under paragraph (a) or (b) above and the reasons for the decision, except that it shall not do so in the case of a decision notified under paragraph (b) unless the institution concerned consents to its doing so.

(6) Where the Board gives a notice under sub-paragraph (1) or (5)(a) or (b) above, it shall serve a copy of the notice—

- (a) on the Bank; and
- (b) on the relevant supervisory authority in the institution's home State.

References to the Financial Services Tribunal

2. Section 97 of the Financial Services Act(3) (references to the Tribunal) shall have effect as if—

- (a) any reference to a notice served under section 29 of that Act included a reference to a notice served under paragraph 1 above;
- (b) any reference to a copy of a notice served under the said section 29 included a reference to a copy of a notice served under sub-paragraph (3) of that paragraph;

(3) 1986 c. 60.

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- (c) any reference to the withdrawal of an authorisation included a reference to the imposition of an absolute prohibition under regulation 15 of these Regulations; and
- (d) any reference to the suspension of an authorisation included a reference to the imposition of a limited prohibition under regulation 15 of these Regulations,

and any reference in that section to a decision not to withdraw or suspend an authorisation shall be construed accordingly.

3.—(1) Section 98 of the Financial Services Act (decisions on references by applicant or authorised person etc.) shall have effect as if—

- (a) the applications mentioned in paragraph (a) of subsection (2) included an application for the variation of a limited prohibition imposed under regulation 15 of these Regulations; but
- (b) as if the applications mentioned in paragraph (b) of that subsection did not include an application for the rescission of any prohibition imposed under that regulation.

(2) Subsection (3)(b) of that section shall have effect as if the provisions there referred to included regulation 15 of these Regulations.

(3) That section shall have effect as if it included provision that paragraph 1 above shall not apply to any action taken by the Board in accordance with the Tribunal’s report.

4.—(1) Subsection (2) of section 100 of the Financial Services Act (withdrawal of references) shall have effect as if the reference to the provisions mentioned in section 97(1)(a) of that Act included a reference to paragraph 1 above.

(2) That section shall have effect as if it included provision that where a person on whom a notice was served under paragraph 1 above withdraws a case from the Tribunal, sub-paragraph (5) of that paragraph shall apply to him as if he had not required the case to be referred.

SCHEDULE 5

Regulation 18(6).

PROHIBITIONS AND RESTRICTIONS BY THE DIRECTOR

Preliminary

1. In this Schedule—

- “appeal period” has the same meaning as in the Consumer Credit Act⁽⁴⁾;
- “prohibition” means a prohibition under regulation 18 of these Regulations;
- “restriction” means a restriction under regulation 19 of these Regulations.

Notice of prohibition or restriction

2.—(1) This paragraph applies where the Director proposes, in relation to a European institution—

- (a) to impose a prohibition;
- (b) to impose a restriction; or
- (c) to vary a restriction otherwise than with the agreement of the institution.

(2) The Director shall, by notice—

(4) 1974 c. 39.

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- (a) inform the institution that, as the case may be, the Director proposes to impose the prohibition or restriction or vary the restriction, stating his reasons; and
 - (b) invite the institution to submit representations to the proposal in accordance with paragraph 4 below.
- (3) If he imposes the prohibition or restriction or varies the restriction, the Director may give directions authorising the institution to carry into effect agreements made before the coming into force of the prohibition, restriction or variation.
- (4) A prohibition, restriction or variation shall not come into force before the end of the appeal period.
- (5) Where the Director imposes a prohibition or restriction or varies a restriction, he shall serve a copy of the prohibition, restriction or variation—
- (a) on the Bank; and
 - (b) on the relevant supervisory authority in the institution's home State.

Application to revoke prohibition or restriction

- 3.—(1) This paragraph applies where the Director proposes to refuse an application made by a European institution for the revocation of a prohibition or restriction.
- (2) The Director shall, by notice—
- (a) inform the institution that the Director proposes to refuse the application, stating his reasons; and
 - (b) invite the institution to submit representations in support of the application in accordance with paragraph 4 below.

Representations to Director

- 4.—(1) Where this paragraph applies to an invitation by the Director to an institution to submit representations, the Director shall invite the institution, within 21 days after the notice containing the invitation is given to it, or such longer period as the Director may allow—
- (a) to submit its representations in writing to the Director; and
 - (b) to give notice to the Director, if it thinks fit, that it wishes to make representations orally;
- and where notice is given under paragraph (b) above the Director shall arrange for the oral representations to be heard.
- (2) In reaching his determination the Director shall take into account any representations submitted or made under this paragraph.
- (3) The Director shall give notice of his determination to the institution.

Appeals

5. Section 41 of the Consumer Credit Act(5) (appeals to the Secretary of State) shall have effect as if—
- (a) the following determinations were mentioned in column 1 of the table set out at the end of that section, namely—
 - (i) imposition of a prohibition or restriction or the variation of a restriction; and

(5) 1974 c. 39.

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- (ii) refusal of an application for the revocation of a prohibition or restriction; and
- (b) the European institution concerned were mentioned in column 2 of that table in relation to those determinations.

SCHEDULE 6

Regulation 22(6).

REQUIREMENTS AS RESPECTS UK INSTITUTIONS

Requirements for carrying on activities etc.

1.—(1) In relation to the carrying on of a home-regulated activity by the provision of services, the requirements of this paragraph are that the institution has given to the UK authority a notice in accordance with paragraph 2 below.

- (2) In relation to the establishment of a branch, the requirements of this paragraph are—
 - (a) that the institution has given to the UK authority a notice in accordance with paragraph 2 below;
 - (b) that the UK authority has given to the relevant supervisory authority in the member State concerned the notice which, subject to paragraph 4 below, it is required by paragraph 3(1) or (2) below to give; and
 - (c) that either—
 - (i) the relevant supervisory authority has informed the institution that it may establish the branch; or
 - (ii) the period of two months beginning with the day on which the UK authority gave the relevant supervisory authority the notice mentioned in paragraph (b) above has elapsed.

2. A notice given by an institution to the UK authority is given in accordance with this paragraph if it states—

- (a) the member State in which the institution proposes to carry on home-regulated activities;
- (b) whether the institution intends to establish a branch in that member State;
- (c) if the notice states that the institution does not intend to establish such a branch, the home-regulated activities in relation to which the notice is given; and
- (d) if the notice states that the institution intends to establish such a branch, the requisite details of the branch.

3.—(1) The notice which, subject to paragraph 4 below, the UK authority is required to give in respect of a UK authorised institution is a notice which is addressed to the relevant supervisory authority in the member State identified in the institution's notice under paragraph 2 above and which—

- (a) certifies that the institution is a credit institution which is for the time being authorised by the UK authority under the Banking Act⁽⁶⁾ or, as the case may be, the Building Societies Act⁽⁷⁾;
- (b) contains the information stated in the institution's notice; and

⁽⁶⁾ 1987 c. 22.

⁽⁷⁾ 1986 c. 53.

- (c) if the institution intends to establish a branch in the member State, contains—
 - (i) a statement of the amount of the institution’s own funds and the solvency ratio of the institution (calculated in accordance with the Solvency Ratio Directive⁽⁸⁾); and
 - (ii) details of any deposit guarantee scheme which is intended to secure the protection of depositors in the branch.

(2) The notice which, subject to paragraph 4 below, the UK authority is required to give in respect of a UK subsidiary is a notice which is addressed to the relevant supervisory authority in the member State identified in the institution’s notice under paragraph 2 above and which—

- (a) certifies that the institution is a financial institution which is a 90 per cent. subsidiary undertaking of a UK authorised institution;
- (b) certifies that the conditions mentioned in regulation 20(5) of these Regulations are fulfilled in relation to the institution;
- (c) certifies that the institution’s business is being conducted in a prudent manner;
- (d) contains the information stated in the institution’s notice; and
- (e) if the institution intends to establish a branch in the member State, contains a statement of the amount of the institution’s own funds and the consolidated solvency ratio of the institution’s parent undertaking (calculated in accordance with the Solvency Ratio Directive).

4.—(1) Where the institution’s notice under paragraph 2 above states that the institution does not intend to establish a branch in the member State, the notice referred to in paragraph 3(1) or (2) above shall be given within the period of one month beginning with the date on which the institution’s notice was received by the UK authority.

(2) Where the institution’s notice under paragraph 2 above states that the institution intends to establish a branch in the member State, the UK authority shall, within the period of three months beginning with the date on which the institution’s notice was received—

- (a) give the notice referred to in paragraph 3(1) or (2) above; or
- (b) refuse to give such a notice.

(3) The UK authority may not refuse to give such a notice unless, having regard to the homeregulated activities proposed to be carried on, the UK authority doubts the adequacy of the administrative structure or the financial situation of the institution.

(4) Before determining to give or to refuse to give such a notice, the UK authority—

- (a) shall seek and take into account the views of every other authority which it knows is a connected UK authority in relation to any of the home-regulated activities proposed to be carried on; and
- (b) may regard itself as satisfied in relation to any matter relating to those activities which is relevant to the decision if any such authority informs the UK authority that it is so satisfied.

(5) In reaching a determination as to the adequacy of the administrative structure, the UK authority may have regard to the adequacy of management, systems and controls and the presence of relevant skills needed for the activities proposed to be carried on.

(6) Where the institution’s notice under paragraph 2 above states that the institution proposes to establish a branch, the UK authority shall, within the period of three months referred to in subparagraph (2) above, notify the institution—

⁽⁸⁾ Council Directive 89/647/EEC (OJ No. L386, 30.12.89, p.14), as amended by Commission Directive 91/31/EEC (OJ No. L17, 23.1.91, p.20).

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- (a) that it has given the notice referred to in paragraph 3(1) or (2) above, stating the date on which it did so; or
- (b) that it has refused to give the notice, stating the reasons for the refusal and giving particulars of the rights conferred by section 27 of the Banking Act or, as the case may be, section 46 of the Building Societies Act.

Requirements for changing requisite details of branch

5.—(1) Subject to sub-paragraph (2) below, the requirements of this paragraph are—

- (a) that the institution has given a notice to the UK authority, and to the relevant supervisory authority in the member State in which it has established the branch, stating the details of the proposed change;
- (b) that that authority has received from the UK authority a notice under paragraph 6(1) below; and
- (c) that either that authority has informed the institution that it may make the change, or the period of one month beginning with the day on which it gave that authority the notice mentioned in paragraph (a) above has elapsed.

(2) In the case of a change occasioned by circumstances beyond the institution's control, the requirements of this paragraph are that the institution has, as soon as practicable (whether before or after the change), given a notice to the UK authority, and to the relevant supervisory authority in the member State in which it has established the branch, stating the details of the change.

6.—(1) The UK authority shall, within the period of one month beginning with the date on which the notice under paragraph 5(1) above was received—

- (a) give a notice to the relevant supervisory authority informing it of the details of the proposed change; or
- (b) refuse to give such a notice.

(2) The UK authority may not refuse to give a notice under sub-paragraph (1) above unless, having regard to the changes and to the home-regulated activities proposed to be carried on, the UK authority doubts the adequacy of the administrative structure or the financial situation of the institution.

(3) Before determining to give or to refuse to give such a notice, the UK authority—

- (a) shall seek and take into account the views of any connected UK authority in relation to any changes to the home-regulated activities proposed to be carried on; and
- (b) may regard itself as satisfied in relation to any matter relating to those activities which is relevant to the decision if any such authority informs the UK authority that it is so satisfied.

(4) In reaching a determination as to the adequacy of the administrative structure, the UK authority may have regard to the adequacy of management, systems and controls and the presence of relevant skills needed for the activities proposed to be carried on.

(5) The UK authority shall, within the period of one month referred to in sub-paragraph (1) above, notify the institution—

- (a) that it has given the notice referred to in that sub-paragraph, stating the date on which it did so; or
- (b) that it refused to give the notice, stating the reasons for the refusal and giving particulars of the rights conferred by section 27 of the Banking Act or, as the case may be, section 46 of the Building Societies Act.

Cancellation of compliance with certain requirements

7.—(1) The UK authority may, on an application by a UK subsidiary, direct that any compliance with the requirements of paragraph 1 above in relation to—

- (a) its carrying on of any activity in another member State; or
- (b) its establishment of a branch in another member State,

shall cease to have effect as from such date as may be specified in the direction.

(2) The UK authority shall not give a direction under this paragraph unless—

- (a) the applicant has given notice of the application to the relevant supervisory authority in the member State concerned; and
- (b) the UK authority has agreed with the relevant supervisory authority that the direction should be given.

(3) The date specified in a direction under this paragraph—

- (a) shall not be earlier than the date requested in the application; but
- (b) subject to that, shall be such date as may be agreed between the UK authority and the relevant supervisory authority.

(4) The UK authority shall as soon as practicable send a copy of any direction given under this paragraph to the applicant, to the relevant supervisory authority and to every other authority which it knows is a connected UK authority.

Appeals

8.—(1) Section 27 of the Banking Act⁽⁹⁾ (rights of appeal) shall have effect as if the decisions mentioned in subsection (1) included a decision of the Bank to refuse to give a notice under paragraph 3(1) or (2) or 6(1) above.

(2) Section 29 of the Banking Act (determination of appeals) shall have effect as if it included provision that, where the tribunal reverses a decision of the Bank to refuse to give a notice under paragraph 3(1) or (2) or 6(1) above, the tribunal shall direct the Bank to give the notice.

9.—(1) Section 46 of the Building Societies Act⁽¹⁰⁾ (rights of appeal) shall have effect as if—

- (a) the decisions mentioned in subsection (1) included a decision of the Commission to refuse to give a notice under paragraph 3(1) or (2) or 6(1) above; and
- (b) in relation to such a decision, the reference in that subsection to a building society included a reference to a UK subsidiary.

(2) Section 47 of the Building Societies Act (determination of appeals) shall have effect as if it included provision that, where the tribunal reverses a decision of the Commission to refuse to give a notice under paragraph 3(1) or (2) or 6(1) above, the tribunal shall direct the Commission to give the notice.

⁽⁹⁾ 1987 c. 22.

⁽¹⁰⁾ 1986 c. 53.

SCHEDULE 7

Regulation 23(7).

RESTRICTIONS BY THE UK AUTHORITY

Preliminary

1. In this Schedule “restriction” means a restriction under regulation 23 of these Regulations.

Notice of restriction in non-urgent cases

2.—(1) Subject to paragraph 3 below, where the UK authority proposes, in relation to a UK subsidiary—

- (a) to impose a restriction; or
- (b) to vary a restriction otherwise than with the agreement of the institution,

the UK authority shall give notice of its proposal to the institution and to every other authority which it knows is a connected UK authority.

(2) A notice under sub-paragraph (1) above shall—

- (a) specify the proposed restriction or, as the case may be, the proposed variation; and
- (b) state the grounds on which the UK authority proposes to act and give particulars of the institution’s rights under sub-paragraph (4) below.

(3) Where—

- (a) a proposed restriction consists of or includes a condition requiring the removal of any person as director, controller or manager; or
- (b) the ground or a ground for a proposal to impose or vary a restriction is that it appears to the UK authority that the criterion in paragraph 1 of Schedule 3 to the Banking Act is not or has not been fulfilled, or may not or may not have been fulfilled, in the case of any person,

the UK authority shall give that person a copy of the notice mentioned in sub-paragraph (1) above, together with a statement of his rights under sub-paragraph (4) below.

(4) An institution which is given a notice under sub-paragraph (1) above and a person who is given a copy under sub-paragraph (3) above may, within the period of 14 days beginning with the day on which the notice was given, make representations to the UK authority.

(5) After giving a notice under sub-paragraph (1) above and taking into account any representations made under sub-paragraph (4) above, the UK authority shall decide whether—

- (a) to proceed with the action proposed in the notice;
- (b) to take no further action; or
- (c) to impose a different restriction or, as the case may be, make a different variation.

(6) The UK authority shall give—

- (a) the institution; and
- (b) any such person as is mentioned in sub-paragraph (4) above,

written notice of its decision and, except where the decision is to take no further action, the notice shall state the reasons for the decision and give particulars of the rights conferred by sub-paragraph (10) below and section 27 of the Banking Act or, as the case may be, section 46 of the Building Societies Act.

(7) A notice under sub-paragraph (6) above shall be given within the period of 28 days beginning with the day on which the notice under sub-paragraph (1) above was given.

(8) If no notice under sub-paragraph (6) above is given within the period mentioned in subparagraph (7) above, the UK authority shall be treated as having at the end of that period given a notice under that sub-paragraph to the effect that no further action is to be taken.

(9) A notice under sub-paragraph (6) above imposing a restriction on an institution or varying a restriction shall have the effect of restricting the institution's activities or varying the restriction in the manner specified in the notice.

(10) Where the decision notified under sub-paragraph (6) above is to impose or vary a restriction otherwise than as stated in the notice given under sub-paragraph (1) above—

- (a) the institution concerned may, within the period of seven days beginning with the day on which the notice was given under sub-paragraph (6) above, make written representations to the UK authority with respect to the restriction or variation; and
- (b) the UK authority may, after taking those representations into account, alter the restriction.

(11) The UK authority may omit from the copy given to a person under sub-paragraph (4) above and from a notice given to him under sub-paragraph (6) above any matter which does not relate to him.

Notice of restriction in urgent cases

3.—(1) No notice need be given in accordance with paragraph 2 above in respect of—

- (a) the imposition of a restriction; or
- (b) the variation of a restriction otherwise than with the agreement of the institution concerned,

in any case in which the UK authority considers that the restriction should be imposed, or the variation should be made, as a matter of urgency.

(2) In any such case the UK authority may by written notice to the institution impose the restriction or make the variation.

(3) Any such notice shall state the reasons for which the UK authority has acted and particulars of the rights conferred by sub-paragraph (5) below and by section 27 of the Banking Act or, as the case may be, section 46 of the Building Societies Act.

(4) Where—

- (a) a restriction consists of or includes a condition requiring the removal of any person as director, controller or manager; or
- (b) the ground or a ground for a restriction or variation of a restriction is that it appears to the UK authority that the criterion in paragraph 1 of Schedule 3 to the Banking Act is not or has not been fulfilled, or may not or may not have been fulfilled, in the case of any person,

the UK authority shall give that person a copy of the notice mentioned in sub-paragraph (2) above, together with a statement of his rights under sub-paragraph (5) below.

(5) An institution to which a notice is given under this paragraph and a person who is given a copy of it by virtue of sub-paragraph (4) above may within the period of 14 days beginning with the day on which the notice was given make representations to the UK authority.

(6) After giving a notice under sub-paragraph (2) above and taking into account any representations made in accordance with sub-paragraph (5) above, the UK authority shall decide whether—

- (a) to confirm or rescind its original decision; or
- (b) to impose a different restriction or to vary the restriction in a different manner.

(7) The UK authority shall, within the period of 28 days beginning with the day on which the notice was given under sub-paragraph (2) above, give the institution written notice of its decision

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under sub-paragraph (6) above and, except where the decision is to rescind the original decision, the notice shall state the reasons for the decision.

(8) Where the notice under sub-paragraph (7) above is of a decision to take the action specified in sub-paragraph (6)(b) above, the notice under sub-paragraph (7) shall have the effect of imposing the restriction, or making the variation specified in the notice, with effect from the date on which it is given.

Appeals

4. Section 27 of the Banking Act (rights of appeal) shall have effect as if the decisions mentioned in subsection (1) included a decision of the Bank to impose or vary a restriction.

5.—(1) Section 46 of the Building Societies Act (rights of appeal) shall have effect as if—

- (a) the decisions mentioned in subsection (1) included a decision of the Commission to impose or vary a restriction; and
- (b) in relation to such a decision, the reference in that subsection to a building society included a reference to a UK subsidiary.

(2) Section 47 of that Act⁽¹¹⁾ (determination of appeals) shall have effect as if it included provision enabling the tribunal to vary any decision of the Commission to impose or vary a restriction by directing the Commission to impose a different restriction or make a different variation.

Statement of principles

6.—(1) The Bank shall, as soon as practicable after the coming into force of these Regulations, publish in such manner as it thinks appropriate a statement of the principles in accordance with which it is acting or proposing to act in exercising its power to restrict the listed activities of a UK subsidiary.

(2) Subsection (2) of section 16 of the Banking Act (statement of principles) shall apply for the purposes of sub-paragraph (1) above as it applies for the purpose of subsection (1) of that section.

SCHEDULE 8

Regulation 47.

AMENDMENTS OF BANKING ACT

Preliminary

1. In this Schedule—

“the Act” means the Banking Act⁽¹²⁾;

“former European institution” means an institution which was formerly a European institution and continues to have a liability in respect of any deposit for which it had a liability when it was a European institution, and “former European authorised institution” shall be construed accordingly;

“former UK subsidiary” means an institution which was formerly a UK subsidiary and continues to have a liability in respect of any deposit for which it had a liability when it was a UK subsidiary.

⁽¹¹⁾ 1986 c. 53; section 47(3) has been amended by paragraph 68 of Schedule 10 to the Courts and Legal Services Act 1990 (c. 41).

⁽¹²⁾ 1987 c. 22.

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The Bank and the Board of Banking Supervision

2. Section 1 of the Act (functions and duties of the Bank) shall have effect as if—
- (a) the reference in subsection (3) to the Bank’s activities under the Act included a reference to its activities under these Regulations; and
 - (b) the reference in subsection (4) to the Bank’s functions under the Act included a reference to its functions under these Regulations.

3. Section 2 of the Act (the Board of Banking Supervision) shall have effect as if references in subsection (3) to the Bank’s functions under the Act included references to its functions under these Regulations.

Meaning of “deposit”

4. Section 5 of the Act (meaning of “deposit”) shall have effect as if the reference in subsection (3) to an authorised institution included a reference to a European authorised institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits.

Authorisations

- 5.—(1) Section 17 of the Act (information as to authorised institutions) shall have effect as if—
- (a) references in subsections (1) and (2) to the institutions which are authorised under the Act included references to European authorised institutions in respect of which the Bank has received a notice given in accordance with paragraph 3 of Schedule 2 to these Regulations; and
 - (b) the reference in subsection (3) to the fact that an institution has ceased to be so authorised included a reference to the fact that an institution has ceased to be a European authorised institution.

(2) That section shall also have effect as if it included provision that any such list as is mentioned in subsection (1) shall indicate the European authorised institutions as respects which the Bank is satisfied that they are entitled to accept deposits in the United Kingdom in the course of carrying on a deposit-taking business (within the meaning of the Act).

6.—(1) Section 18 of the Act (false statements as to authorised status) shall have effect as if subsection (1) also precluded any person other than a European institution from—

- (a) describing himself as a European institution; or
- (b) so holding himself out as to indicate or be reasonably understood to indicate that he is a European institution.

(2) That section shall also have effect as if any reference in subsection (2) to an authorised institution included a reference to a European institution.

Invitations to make deposits

7. Section 33 of the Act (advertisement directions) shall have effect as if the reference in subsection (1) to an authorised institution included a reference to a European authorised institution.

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Information

8.—(1) Section 39 of the Act(**13**) (power to obtain information and require production of documents) shall have effect as if—

- (a) references to an authorised institution included references to a European institution, a quasi-European authorised institution or a UK subsidiary;
- (b) references to the Bank’s functions under the Act included references to its functions under these Regulations;
- (c) references to an officer, servant or agent of the Bank included references to an officer, servant or agent of the relevant supervisory authority in a European institution’s or quasi-European authorised institution’s home State;
- (d) references to such information or documents as the Bank may reasonably require for the performance of its functions under the Act included references to such information or documents as such an authority may reasonably require for the performance of any of its functions corresponding to those of the Bank under the Act or these Regulations or those of a connected UK authority; and
- (e) the reference to a former authorised institution included a reference to a former European institution.

(2) That section shall also have effect as if it included provision empowering the Bank to exercise the powers conferred by that section for the purpose of assisting a supervisory authority in a European institution’s home State in the performance of any functions corresponding to those of the Bank under the Act or these Regulations or to those of a connected UK authority.

(3) A person who is guilty of an offence under subsection (11) of that section by virtue of this paragraph shall not be liable to imprisonment for a term exceeding three months.

9.—(1) Section 40 of the Act (right of entry to obtain information and documents) shall have effect as if the reference in subsection (2) to any officer, servant or agent of the Bank included a reference to any officer, servant or agent of a supervisory authority in a European institution’s or quasi-European authorised institution’s home State.

(2) A person who is guilty of an offence under subsection (3) of that section by virtue of this paragraph shall not be liable to imprisonment for a term exceeding three months.

Investigations

10.—(1) Section 41 of the Act(**14**) (investigations on behalf of the Bank) shall have effect as if—

- (a) references to an authorised institution included references to a European institution or a quasi-European authorised institution; and
- (b) the reference to a former authorised institution included a reference to a former European institution.

(2) That section shall also have effect as if it included provision empowering the Bank to exercise the powers conferred by that section for the purpose of assisting a supervisory authority in a European institution’s home State in the performance of any functions corresponding to those of the Bank under the Act or these Regulations or those of a connected UK authority.

(13) Section 39 is amended by regulation 36 of these Regulations, and its application as amended is subject to the savings in regulation 46.

(14) Section 41 is amended by regulation 37 of these Regulations, and its application as amended is subject to the savings in regulation 46.

(3) A person who is guilty of an offence under subsection (9) of that section by virtue of this paragraph shall not be liable to imprisonment for a term exceeding three months.

Accounts and auditors

11. Section 45 of the Act (audited accounts to be open for inspection) shall have effect as if the reference in subsection (1) to an authorised institution included a reference to a European authorised institution.

12. Section 47 of the Act (communications by auditor etc. with the Bank) shall have effect as if—

- (a) references to authorised institutions included references to European institutions and UK subsidiaries;
- (b) the reference in subsection (1) to any function of the Bank under the Act included a reference to any function of the Bank under these Regulations; and
- (c) the reference in subsection (7) to a former authorised institution included a reference to a former European institution.

The deposit protection scheme

13. Section 50 of the Act (the Deposit Protection Board) shall have effect as if the reference in subsection (2) to authorised institutions included a reference to European authorised institutions which accept deposits in the United Kingdom.

14.—(1) Subject to sub-paragraph (2) below, section 52 of the Act (contributory institutions and general provisions as to contributions) shall have effect as if the reference in subsection (1) to authorised institutions included a reference to European authorised institutions which accept deposits in the United Kingdom.

(2) The Deposit Protection Board may, with the consent of the Treasury, waive (in whole or in part) all or any contributions from a European authorised institution which accepts deposits in the United Kingdom if it is satisfied that it is appropriate to do so, having regard to the extent to which sterling deposits with the United Kingdom offices of the institution are protected—

- (a) under the law of the institution's home State; or
- (b) by virtue of any arrangements which are in force there.

15. Section 58 of the Act (compensation payments to depositors) shall have effect as if in subsection (1)—

- (a) the reference to an authorised institution included a reference to a European authorised institution which accepts deposits in the United Kingdom; and
- (b) the reference to a former authorised institution included a reference to an institution which—
 - (i) was formerly a European authorised institution which accepted deposits in the United Kingdom; and
 - (ii) continues to have a liability in respect of any deposit for which it had a liability when it was such an institution.

16. Section 60 of the Act (protected deposits) shall have effect as if in subsection (6)—

- (a) the reference to a former authorised institution included a reference to an institution which—
 - (i) was formerly a European authorised institution which accepted deposits in the United Kingdom; and

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- (ii) continues to have a liability in respect of any deposit for which it had a liability when it was such an institution; and
- (b) the references to ceasing to be an authorised institution included references to ceasing to be a European authorised institution which accepted deposits in the United Kingdom.

Banking names and descriptions

17. Section 68 of the Act (exemptions from section 67) shall have effect as if the reference in subsection (3) to an authorised institution included a reference to a European authorised institution.

18. Section 69 of the Act (restriction on use of banking descriptions) shall have effect as if the reference in subsection (1) to an authorised institution included a reference to a European authorised institution.

19.—(1) Section 70 of the Act (power to object to institution’s names) shall have effect as if—

- (a) subsection (1) included provision enabling the Bank to give notice in writing to a European institution or quasi-European institution whose recognition notice stated an intention to establish a branch in the United Kingdom that it objects to the name stated in that notice as one of the requisite details of the branch;
- (b) the reference in subsection (1) to an institution applying for an authorisation under the Act included a reference to a European institution or quasi-European institution whose recognition notice stated no such intention;
- (c) the reference in subsection (2) to an authorised institution included a reference to a European institution;
- (d) the reference in subsection (3) to an authorised institution to which section 67 of the Act applies included a reference to a European authorised institution; and
- (e) the reference in paragraph (b) of that subsection to the said section 67 included a reference to section 68(3) of the Act.

(2) In this paragraph “recognition notice”, in relation to a European institution or quasi-European institution, means a notice given by it in accordance with paragraph 2 of Schedule 2 to these Regulations.

20. Section 71 of the Act (effect of notices under section 70 and appeals) shall have effect as if the reference in subsection (1) to an authorised institution included a reference to a European institution.

Overseas institutions

21. Section 74 of the Act (meaning of “overseas institution” and “representative office”) shall have effect as if the reference in subsection (1) to an authorised institution included a reference to a European institution.

Disclosure of information

22. Section 82 of the Act (restrictions on disclosure) shall have effect as if the reference to the Bank’s functions under the Act included a reference to its functions under these Regulations.

23. Section 83 of the Act⁽¹⁵⁾ (disclosure for facilitating discharge of functions by Bank) shall have effect as if—

(15) Section 83 is amended by regulation 38 of these Regulations, and its application as amended is subject to the savings in regulation 46.

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- (a) the reference to the Bank's functions under the Act included a reference to its functions under these Regulations;
- (b) references to an authorised institution included references to a European institution or UK subsidiary; and
- (c) the reference to a former authorised institution included a reference to a former European institution or former UK subsidiary.

24. Section 84 of the Act (disclosure for facilitating discharge of functions by other supervisory authorities) shall have effect as if the reference in subsection (5A)(a)(**16**) to an authorised institution or former authorised institution included a reference to a European institution or former European institution.

25. Section 86 of the Act(**17**) (information supplied to Bank by overseas authority etc.) shall have effect as if the references in subsections (1) to (3) to the Bank's functions under the Act included a reference to its functions under these Regulations.

26. Section 87 of the Act(**18**) (disclosure of information obtained under other Acts) shall have effect as if the reference in subsection (3A) to the Bank's functions under the Act included a reference to its functions under these Regulations.

Miscellaneous and supplementary

27. Section 93 of the Act (injunctions) shall have effect as if the reference in subsection (1) to a direction under section 19 of the Act included a reference to a restriction under regulation 10 or 23 of these Regulations.

28. Section 94 of the Act (false and misleading information) of that Act shall have effect as if—

- (a) the reference in subsection (1) to a requirement imposed by or under the Act included a reference to a requirement imposed by or under these Regulations;
- (b) references in subsections (1) and (3) to the Bank's functions under the Act included references to its functions under these Regulations;
- (c) the reference in subsection (3) to an authorised institution included a reference to a European institution or UK subsidiary; and
- (d) the reference in that subsection to a former authorised institution included a reference to a former European institution or former UK subsidiary.

29. Section 95 of the Act (restriction of Rehabilitation of Offenders Act 1974) shall have effect as if in subsection (4)—

- (a) the reference to imposing a restriction included a reference to imposing a restriction under regulation 10 or 23 of these Regulations;
- (b) the reference to an authorised institution included a reference to a European institution or UK subsidiary; and
- (c) the reference to a former authorised institution included a reference to a former European institution or former UK subsidiary.

30. Section 99 of the Act (service of notices on Bank) shall have effect as if the reference in subsection (1) to a notice required by that Act to be given to or served on the Bank included a reference to a notice required by these Regulations to be so given or served.

(16) Section 84(5A) is substituted by regulation 39(2) of these Regulations, and its application is subject to the savings in regulation 46.

(17) Section 86 is substituted by regulation 41 of these Regulations, and its application is subject to the savings in regulation 46.

(18) Section 87(3A) is inserted by regulation 42 of these Regulations, and its application is subject to the savings in regulation 46.

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31. Section 100 of the Act (service of other notices) shall have effect in relation to a European institution which has not established a branch in the United Kingdom as if in subsection (4) the words from “except that” to the end were omitted.

32.—(1) Section 101 of the Act (evidence) shall have effect as if in subsection (1)—

- (a) the reference to an authorised institution included a reference to a European institution or UK subsidiary;
- (b) the reference to the date on which a particular institution became or ceased to be authorised included a reference to the date on which a particular institution became or ceased to be a European institution or UK subsidiary; and
- (c) the reference to whether or not a particular institution’s authorisation is or was restricted included a reference to whether or not a restriction under regulation 10 or 23 of these Regulations has or had been imposed on a particular European institution or UK subsidiary.

(2) In giving a certificate under subsection (1) of that section in relation to a European institution, the Bank may rely on any information supplied to it by the relevant supervisory authority in the institution’s home State.

33. Section 106 of the Act (interpretation) shall have effect as if the reference in the definition of “former authorised institution” in subsection (1) to an institution which was formerly an authorised institution did not include a reference to a European authorised institution.

SCHEDULE 9

Regulation 55.

AMENDMENTS OF FINANCIAL SERVICES ACT

Preliminary

1. In this Schedule—

“the Act” means the Financial Services Act(19);

“investment agreement” has the same meaning as in the Act.

Restriction on carrying on business

2. Section 5 of the Act (agreements made by or through unauthorised persons) shall have effect as if the persons mentioned in subsection (1)(b)(i) included a European institution acting in the course of home-regulated investment business carried on by it in the United Kingdom.

Authorised persons

3. Section 10 of the Act (grant and refusal of recognition of self-regulating organisations) shall have effect as if the excepted cases mentioned in subsection (3) included the case where the member is a European institution and the business is home-regulated investment business.

4. Section 13 of the Act(20) (alteration of rules of recognised self-regulating organisation for protection of investors) shall have effect as if the excepted cases mentioned in subsection (2) (both

(19) 1986 c. 60.

(20) 1986 c. 60; section 13 has been amended by sections 206 and 212 of, and Schedules 23 and 24 to, the Companies Act 1989 (c. 40) subject to the savings provided for in the Companies Act 1989 (Commencement, Transitional Provisions and Transfer of Functions under the Financial Services Act 1986) Order 1990 (S.I. 1990/354).

as amended and as originally enacted) included the case where the member is a European institution and the business is home-regulated investment business.

5. Section 28 of the Act (withdrawal and suspension of authorisation) shall have effect in relation to an authorisation granted to a European institution as if the reference in subsection (1)(a) to the investment business which the holder of the authorisation is carrying on or proposing to carry on did not include a reference to any home-regulated investment business.

6. Section 32 of the Act (notice of commencement of business) shall have effect in relation to a notice given under subsection (1) by a European institution or quasi-European authorised institution as if the reference in subsection (2)(a) to the investment business which is proposed to be carried on did not include a reference to any home-regulated investment business.

Exempted persons

7. Section 44 of the Act (appointed representatives) shall have effect as if any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

8. Section 45 of the Act (miscellaneous exemptions) shall have effect as if the reference in subsection (2) to a partnership which is an authorised person included a reference to a partnership which is or was a European institution carrying on home-regulated investment business in the United Kingdom.

Conduct of business

9.—(1) Section 47A of the Act(21) (statements of principle) shall have effect as if—

- (a) the reference in subsection (1) to the conduct expected of persons authorised to carry on investment business included a reference to the conduct expected of European institutions carrying on home-regulated investment business in the United Kingdom; and
- (b) the reference in subsection (4) to the withdrawal or suspension of authorisation under section 28 of the Act included a reference to the imposition of a prohibition under regulation 15 of these Regulations.

(2) That section shall also have effect as if it included provision that a statement of principle issued under that section shall not include, as respects any European institution—

- (a) provision as to the fitness of the institution to carry on any home-regulated investment business; or
- (b) provision as to any other matter for which, under the Second Council Directive, responsibility is reserved to the relevant supervisory authority in the institution's home State.

10.—(1) Section 48 of the Act(22) (conduct of business rules) shall have effect as if—

- (a) the reference in subsection (1) to the conduct of investment business by authorised persons included a reference to the conduct of home-regulated investment business carried on in the United Kingdom by European institutions; and
- (b) the reference in subsection (2) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

(21) Section 47A was inserted by section 192 of the Companies Act 1989 (c. 40).

(22) Section 48 has been amended by sections 206 and 212 of, and Schedules 23 and 24 to, the Companies Act 1989 (c. 40).

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(2) That section shall have effect as if it included provision that rules under that section shall not include, as respects any European institution—

- (a) provision prohibiting the institution from carrying on, or holding itself out as carrying on, any home-regulated investment business; or
- (b) provision as to any matter for which, under the Second Council Directive, responsibility is reserved to the relevant supervisory authority in the institution's home State.

11.—(1) Section 49 of the Act(**23**) (financial resources rules) shall have effect as if it included provision that rules under that section shall not include, as respects any European institution which is a member of a recognised self-regulating organisation, provision requiring the institution to have and maintain financial resources in respect of any home-regulated investment business carried on by it.

(2) Subsection (2) of that section shall also have effect in relation to an authorised person who is a European institution as if the reference in paragraph (b) to any business (whether or not investment business) carried on by the person concerned did not include a reference to any homeregulated investment business.

12.—(1) Section 51 of the Act (cancellation rules) shall have effect as if the reference in subsection (1) to a person who has entered or offered to enter into an investment agreement with an authorised person included a reference to a person who has entered or offered to enter into an investment agreement to which sub-paragraph (2) below applies.

(2) This sub-paragraph applies to an investment agreement which is made by a European institution in the course of the carrying on by it of home-regulated investment business in the United Kingdom.

13.—(1) Section 52 of the Act(**24**) (notification regulations) shall have effect as if any reference to authorised persons, or an authorised person, included a reference to European institutions, or a European institution, carrying on home-regulated investment business in the United Kingdom.

(2) That section shall also have effect as if it included provision that regulations under that section shall not require European institutions to furnish information which is not reasonably required for purposes connected with the exercise of functions under the Act or these Regulations.

14. Section 53 of the Act (indemnity rules) shall have effect as if the reference in subsection (1) to civil liability incurred by an authorised person in connection with his investment business included a reference to civil liability incurred by a European institution in connection with home-regulated investment business carried on by it in the United Kingdom.

15. Section 54 of the Act(**25**) (compensation fund) shall have effect as if—

- (a) it included provision that rules establishing a scheme under that section may include in the scheme provision for compensating investors in cases where persons who are or have been European institutions are unable, or likely to be unable, to satisfy claims in respect of any civil liability incurred by them in connection with home-regulated investment business carried on by them in the United Kingdom; and
- (b) any reference in subsection (2) to authorised persons included a reference to European institutions carrying on home-regulated investment business in the United Kingdom.

(23) Section 49 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(24) Section 52 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(25) Section 54 has been amended by article 389 of, and Schedule 9 to, the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19)).

16. Section 55 of the Act⁽²⁶⁾ (clients' money) shall have effect as if any reference to authorised persons, or an authorised person, included a reference to European institutions, or a European institution, carrying on home-regulated investment business in the United Kingdom.

17. Section 57 of the Act (restrictions on advertising) shall have effect as if any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

18. Section 59 of the Act (employment of prohibited persons) shall have effect as if any reference to authorised persons, or an authorised person, included a reference to European institutions, or a European institution, carrying on home-regulated investment business in the United Kingdom.

- 19.** Section 60 of the Act (public statement as to person's misconduct) shall have effect as if—
- (a) the reference in subsection (1) to a person who is or was an authorised person by virtue of section 25 of that Act included a reference to a person who is or was a European institution carrying on home-regulated investment business in the United Kingdom;
 - (b) the reference in subsection (3) to the authorised person included a reference to the European institution; and
 - (c) it included provision that where any notice under that section is given to a person who is or was a European institution, a copy of the notice shall be served on the Bank.

20. Section 64 of the Act (scope of powers of intervention) shall have effect in relation to an authorised person who is a European institution as if the reference in subsection (1) to investment business of a particular kind did not include a reference to any home-regulated investment business which the authorised person is carrying on or proposing to carry on.

21. Section 65 of the Act (restriction of business) shall have effect as if the reference in subsection (1) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

- 22.** Section 66 of the Act (restriction on dealing with assets) shall have effect as if—
- (a) the reference in subsection (1) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom; and
 - (b) it included provision that a prohibition may not be imposed under that section in relation to a European institution unless the relevant supervisory authority in the institution's home State has requested that measures be taken for the purpose of ensuring that the institution has sufficient assets available to cover risks arising from open positions on financial markets in the United Kingdom.

- 23.** Section 67 of the Act (vesting of assets in trustee) shall have effect as if—
- (a) any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom; and
 - (b) it included provision that a requirement may not be imposed under that section in relation to a European institution unless the relevant supervisory authority in the institution's home State has requested that measures be taken for the purpose of ensuring that the institution has sufficient assets available to cover risks arising from open positions on financial markets in the United Kingdom.

(26) Section 55 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Collective investment schemes

24. Section 75 of the Act⁽²⁷⁾ (collective investment schemes: interpretation) shall have effect as if the reference in subsection (6) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

25. Section 76 of the Act (restrictions on promotion) shall have effect as if any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

26. Section 93 of the Act (applications to the court) shall have effect as if the reference in subsection (1) to an authorised person included a reference to a European institution.

Information

27. Section 102 of the Act (register of authorised persons etc.) shall have effect as if it included provision that—

- (a) the register kept under that section shall contain an entry in respect of each institution which appears to the Board to be a European institution carrying on home-regulated investment business in the United Kingdom;
- (b) the entry in respect of each such institution shall consist of—
 - (i) information as to the services which the institution holds itself out as able to provide; and
 - (ii) such other information as the Board may determine;
- (c) where it appears to the Board that any person in respect of whom there is an entry in the register by virtue of paragraph (a) above has ceased to be a European institution carrying on home-regulated investment business in the United Kingdom, the Board shall make a note to that effect in the entry together with the reason why the person in question is no longer such an institution; and
- (d) an entry in respect of which a note is made by virtue of paragraph (c) above may be removed from the register at the end of such period as the Board thinks fit.

28. Section 104 of the Act (power to call for information) shall have effect as if—

- (a) the reference in subsection (1) to a person who is authorised to carry on investment business by virtue of any of the provisions there mentioned included a reference to a European institution carrying on home-regulated investment business in the United Kingdom; and
- (b) references to functions under the Act included references to functions under these Regulations.

29. Section 106 of the Act⁽²⁸⁾ (exercise of investigation powers by officer etc.) shall have effect as if it included provision that—

- (a) where the Secretary of State or the Board authorises a person other than one of his or its officers to exercise any powers under section 105 of the Act (investigation powers) in relation to any home-regulated investment business of a European institution, the Secretary of State or, as the case may be, the Board may determine that subsection (3) of section 106 shall not apply; and
- (b) where such a determination is made, the person authorised to exercise the powers shall make a report to the relevant supervisory authority in the institution's home State, in such

⁽²⁷⁾ Section 75 has been amended by the Financial Services Act 1986 (Restriction of Scope of Act and meaning of Collective Investment Scheme) Order 1990 (S.I.1990/349).

⁽²⁸⁾ Section 106 has been amended by section 73 of the Companies Act 1989 (c. 40).

manner as that authority may require, on the exercise of those powers and the results of exercising them.

Auditors

30. Subsection (3) of section 107 of the Act(**29**) (appointment of auditors) shall have effect in relation to an auditor appointed by an authorised person which is a European institution as if the reference to the accounts of the authorised person did not include a reference to any accounts relating to a home-regulated activity.

31. Section 109 of the Act (communication by auditor with supervisory authorities) shall have effect as if in subsection (1)—

- (a) the reference to an authorised person included a reference to a European institution; and
- (b) the reference to functions under the Act included a reference to functions under these Regulations.

32. Subsection (3) of section 110 of the Act (overseas business) shall have effect in relation to a European institution as if any reference to investment business did not include a reference to home-regulated investment business; and the reference in paragraph (b) of that subsection to the powers and duties of an auditor shall be construed accordingly.

Fees

33. Section 113 of the Act (periodical fees) shall have effect as if it included provision that a European institution carrying on home-regulated investment business in the United Kingdom shall pay such periodical fees to the Board as may be prescribed by regulations made under that section.

Prevention of restrictive practices

34. Section 119 of the Act(**30**) (recognised self-regulating organisations, investment exchanges and clearing houses) shall have effect as if any reference in subsections (1) and (2) to the protection of investors included a reference to compliance with the Second Council Directive.

35. Section 121 of the Act(**31**) (designated agencies) shall have effect as if any reference in subsections (1) and (2) to the protection of investors included a reference to compliance with the Second Council Directive.

Relations with other regulatory authorities

36.—(1) Section 128C of the Act(**32**) (enforcement in support of overseas regulatory authority) shall have effect as if it—

- (a) required the powers mentioned in subsection (1) to be exercised at the request of the relevant supervisory authority in another member State if their exercise is necessary for the purposes of complying with the Second Council Directive; and
- (b) included provision that, in relation to the exercise of those powers in such a case, subsections (4) and (5) shall not apply and the Board shall notify the action taken by it to that authority.

(29) Section 107 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(30) Section 119 has been amended by sections 206 and 212 of, and Schedules 23 and 24 to, the Companies Act 1989 (c. 40).

(31) Section 121 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(32) Section 128C was inserted by section 196 of the Companies Act 1989 (c. 40).

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(2) That section shall also have effect as if the reference in subsection (2) to the power to withdraw or suspend authorisation under section 28 of the Act included a reference to the power to impose a prohibition under regulation 15 of these Regulations.

Official listing of securities

37. Section 154 of the Act (advertisements etc. in connection with listing applications) shall have effect as if—

- (a) it included provision that, where a European institution carrying on home-regulated investment business in the United Kingdom contravenes that section, it shall be treated as having contravened rules made under Chapter V of Part I of the Act, or in the case of an institution which is a member of a recognised self-regulating organisation, the rules of that organisation; and
- (b) the reference in subsection (3) to a person other than an authorised person did not include a reference to such an institution.

Offers of unlisted securities

38. Section 171 of the Act⁽³³⁾ (contraventions in relation to offers of unlisted securities) shall have effect as if—

- (a) it included provision that, where a European institution carrying on home-regulated investment business in the United Kingdom does any of the things specified in paragraphs (a) to (c) of subsection (1), it shall be treated as having contravened rules made under Chapter V of Part I of the Act, or in the case of an institution which is a member of a recognised self-regulating organisation, the rules of that organisation; and
- (b) the reference in subsection (3) to a person other than an authorised person did not include a reference to such an institution.

Insider dealing

39.—(1) Section 178 of the Act (penalty for failure to co-operate with section 177 investigations) shall have effect as if—

- (a) the reference in subsection (3) to an authorised person included a reference to a European institution; and
- (b) the notices which may be served on a European institution under that subsection included a notice—
 - (i) directing that regulation 5(1)(b) of these Regulations shall not apply in relation to the institution after the expiry of a specified period after the service of the notice; or
 - (ii) directing that during a specified period that provision shall apply in relation to the institution only as respects the performance of contracts entered into before the notice comes into force;
- (c) the reference in subsection (4) to the period mentioned in paragraphs (a) and (c) of subsection (3) included a reference to the period mentioned in paragraph (b)(i) and (ii) above;
- (d) any reference in subsection (5) to an unauthorised person did not include a reference to a European institution carrying on home-regulated investment business in the United Kingdom; and

⁽³³⁾ Section 171 has been amended by section 198 of the Companies Act 1989 (c. 40).

- (e) the reference in that subsection to any authorised person included a reference to such a European institution.
- (2) That section shall also have effect as if it included provision that if, it appears to the Secretary of State—
- (a) that a person on whom he serves a notice under subsection (3) is a European institution carrying on home-regulated investment business in the United Kingdom; or
 - (b) that a person on whom he serves a revocation notice under subsection (7) was such an institution at the time when the notice which is being revoked was served,
- he shall serve a copy of the notice on the Board or, in the case of an institution which is a member of a recognised self-regulating organisation, that organisation.

Restrictions on disclosure of information

40. Section 179 of the Act(**34**) (restrictions on disclosure of information) shall have effect as if the reference in subsection (2) to functions under the Act included a reference to functions under these Regulations.

41. Section 180 of the Act(**35**) (exceptions from restriction on disclosure of information) shall have effect as if—

- (a) the reference in paragraph (g) of subsection (1) to functions under the Banking Act included a reference to functions under these Regulations;
- (b) the reference in that subsection to functions under the Building Societies Act included a reference to functions under these Regulations; and
- (c) the reference in that subsection to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Miscellaneous and supplementary

42. Section 191 of the Act (occupational pension schemes) shall have effect as if any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

43. Section 206 of the Act(**36**) shall have effect as if the reference in subsection (1) to authorised persons included a reference to European institutions.

Activities constituting investment business

44.—(1) Paragraph 17 of Schedule 1 to the Act(**37**) (investments and investment business) shall have effect as if any reference to authorised persons, or an authorised person, included a reference to European institutions, or a European institution, carrying on home-regulated investment business in the United Kingdom.

(2) Paragraph 18 of that Schedule shall have effect as if the reference in sub-paragraph (2) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

(34) Section 179 has been amended by sections 75 and 212 of, and Schedule 24 to, the Companies Act 1989 (c. 40).

(35) Section 180 has been amended by section 108 of, and paragraph 27(3) of Schedule 6 to, the Banking Act 1987 (c. 22) and by sections 75 and 212 of, and Schedule 24 to, the Companies Act 1989 (c. 40).

(36) Section 206 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(37) Paragraph 17 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40) and by the Financial Services Act 1986 (Restriction of Scope of Act and Meaning of Collective Investment Scheme) Order 1990 (S.I. 1990/349).

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(3) Paragraph 26 of that Schedule shall have effect as if any reference to an authorised person, or authorised persons, included a reference to a European institution, or European institutions, carrying on home-regulated investment business in the United Kingdom.

Requirements for recognition of self-regulating organisation

45.—(1) Paragraph 2 of Schedule 2 to the Act (requirements for recognition of self-regulating organisation) shall have effect as if it included provision that the rules and practices of the organisation must be such as to secure that no European institution, other than one on which an absolute prohibition has been imposed under regulation 15 of these Regulations, is refused admission to the organisation, or expelled from it, for reasons relating to the institution’s fitness to carry on any home-regulated investment business.

(2) Paragraph 3 of that Schedule(**38**) shall have effect as if it included provision that the rules of the organisation must not include, as respects any European institution—

- (a) provision requiring the institution to have and maintain financial resources in respect of any home-regulated investment business carried on by it; or
- (b) provision as to any other matter for which, under the Second Council Directive, responsibility is reserved to a supervisory authority in the institution’s home State.

(3) That paragraph shall also have effect as if—

- (a) the reference in sub-paragraph (3) to Chapter VI of Part I of the Act included a reference to regulation 16 of these Regulations; and
- (b) it included provision that the rules of the organisation must be such as to secure that, where a power falling within that sub-paragraph is exercisable by virtue of a European institution’s contravention of a requirement to furnish information for statistical purposes, the exercise of the power shall be subject to such restrictions as are necessary for the purposes of complying with article 21 of the Second Council Directive.

(4) Paragraph 7 of that Schedule shall have effect as if it included provision that, for the purposes of complying with the Second Council Directive, the organisation must be able and willing to co-operate, by the sharing of information and otherwise, with supervisory authorities in other member States.

Qualifications of designated agency

46.—(1) Paragraph 4 of Schedule 7 to the Act(**39**) (qualifications of designated agency) shall have effect as if any reference to authorised persons included a reference to European institutions carrying on home-regulated investment business in the United Kingdom.

(2) Paragraph 5 of that Schedule shall have effect as if it included provision that, for the purposes of complying with the Second Council Directive, the agency must be able and willing to co-operate, by the sharing of information and otherwise, with supervisory authorities in other member States.

Principles applicable to designated agency’s legislative provisions

47. Schedule 8 to the Act(**40**) (principles applicable to designated agency’s legislative provisions) shall have effect as if any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

(38) Paragraph 3 has been amended by section 203 of the Companies Act 1989 (c. 40).

(39) Schedule 7 has been amended by sections 204 and 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(40) Schedule 8 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

SCHEDULE 10

Regulation 82(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

PRIMARY LEGISLATION

Judicial Factors Act 1849 (c. 51)

1. Section 5(1) of the Judicial Factors Act 1849(41) (factor to lodge monies in one bank) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Bankers' Books Evidence Act 1879 (c. 11)

2. Section 9(1) of the Bankers' Books Evidence Act 1879(42) (meaning of “bank” etc.) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Agricultural Credits Act 1928 (c. 43)

3. Section 5(7) of the Agricultural Credits Act 1928(43) (meaning of “bank” etc.) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Agricultural Credits (Scotland) Act 1929 (c. 13)

4. Section 9(2) of the Agricultural Credits (Scotland) Act 1929(44) (meaning of “bank” etc.) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Superannuation Act 1972 (c. 11)

5. Sections 1, 9 and 10 of the Superannuation Act 1972(45) (superannuation of civil servants etc.) shall each have effect as if the reference in subsection (2A) to any authorised provider included a reference to any European institution acting in the course of home-regulated investment business carried on by it in the United Kingdom.

(41) Section 5(1) has been amended by section 7(a) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55), and by section 74(1) of, and paragraph 21(1)(a) of Schedule 8 to, the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40).

(42) Section 9 was substituted by the Banking Act 1979 (c. 37), and subsection (1)(a) was substituted by section 108(1) of, and paragraph 1 of Schedule 6 to, the Banking Act 1987 (c. 22).

(43) Relevant amendments to section 5(7) have been made by section 51(1) of, and paragraphs 2 and 14 of Schedule 6 to, the Banking Act 1979 (c. 37), and by section 108(1) of, and paragraph 2(1) of Schedule 6 to, the Banking Act 1987 (c. 22).

(44) Relevant amendments to section 9(2) have been made by section 51(1) of, and paragraphs 3 and 15 of Schedule 6 to, the Banking Act 1979 (c. 37), and by section 108(1) of, and paragraph 3(1) of Schedule 6 to, the Banking Act 1987 (c. 22).

(45) Sections 1(2A), 9(2A) and 10(2A) were inserted by sections 8(1), 8(3) and 8(5) respectively of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7); other amendments not relevant to these Regulations were also made to sections 1, 9 and 10 of the Superannuation Act 1972 (c. 11) by the Pensions (Miscellaneous Provisions) Act 1990.

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Superannuation (Northern Ireland) Order 1972 (S.I.1972/1073 (N.I. 10))

6. Articles 3, 11 and 12 of the Superannuation (Northern Ireland) Order 1972 (superannuation of civil servants etc.) shall each have effect as if the reference in paragraph (1A) or, as the case may be, paragraph (2A) to any authorised provider included a reference to any European institution acting in the course of home-regulated investment business carried on by it in the United Kingdom.

Consumer Credit Act 1974 (c. 39)

7. Section 16(1)(h) of the Consumer Credit Act 1974(46) (exclusion of authorised institution's agreements from Act) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Solicitors Act 1974 (c. 47)

8.—(1) Section 23(2) of the Solicitors Act 1974(47) (unqualified person not to prepare papers for probate etc.) shall have effect as if the reference to an institution authorised by the Bank, under the Banking Act, to carry on a deposit-taking business included a reference to a European deposit-taker.

(2) Section 87(1) of that Act(48) (interpretation) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Credit Unions Act 1979 (c. 34)

9. Section 31(1) of the Credit Unions Act 1979(49) (interpretation) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Crown Agents Act 1979 (c. 43)

10. Section 8(5) of the Crown Agents Act 1979(50) (pre-funding of agency activities) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Solicitors (Scotland) Act 1980 (c. 46)

11. Section 35(2) of the Solicitors (Scotland) Act 1980(51) (accounts rules) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

British Telecommunications Act 1981 (c. 38)

12. Section 67(4) of the British Telecommunications Act 1981(52) (general classes of acts not infringing postal privilege) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

(46) Section 16(1)(h) was inserted by section 88(2) of the Banking Act 1987 (c. 22), and a definition of "authorised institution" was inserted in section 189(1) by section 88(4) of the Banking Act 1987.

(47) Section 23(2) was substituted by section 54(1) of the Courts and Legal Services Act 1990 (c. 54).

(48) Section 87(1) has been amended by section 108(1) of, and paragraph 5 of Schedule 6 to, the Banking Act 1987 (c. 22).

(49) Section 31(1) has been amended by section 108 of, and paragraph 7(2) of Schedule 6, and Part I of Schedule 7 to, the Banking Act 1987 (c. 22).

(50) Section 8(5) has been amended by section 108(1) of, and paragraph 8 of Schedule 6 to, the Banking Act 1987 (c. 22).

(51) Relevant amendments to section 35(2) have been made by section 108 of, and paragraph 9 of Schedule 6 and Part I of Schedule 7 to, the Banking Act 1987 (c. 22).

(52) Section 67(4) has been amended by section 108(1) of, and paragraph 10 of Schedule 6 to, the Banking Act 1987 (c. 22).

Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I.3))

13. In Schedule 10 to the Housing (Northern Ireland) Order 1981(**53**), paragraph 4(b) shall have effect as if the reference to institutions authorised under the Banking Act included a reference to European deposit-takers.

Duchy of Cornwall Management Act 1982 (c. 47)

14. Section 6(4) of the Duchy of Cornwall Management Act 1982(**54**) (banking) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Data Protection Act 1984 (c. 35)

15. Section 30 of the Data Protection Act 1984 (exemption for regulation of financial services etc.) shall have effect as if—

- (a) the reference in subsection (1) to prejudicing the proper discharge of statutory functions to which that section applies included a reference to contravening article 12 of the First Council Directive(**55**); and
- (b) the reference in subsection (2) to any enactment included a reference to these Regulations.

Companies Act 1985 (c. 6)

16. Section 446 of the Companies Act 1985(**56**) (investigation of share dealings) shall have effect as if the references in subsection (4)(c) to (e) to an authorised person within the meaning of the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Company Securities (Insider Dealing) Act 1985 (c. 8)

17. Section 13 of the Company Securities (Insider Dealing) Act 1985(**57**) (definition of “offmarket dealer” etc.) shall have effect as if the reference in subsection (3) to an authorised person within the meaning of the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Bankruptcy (Scotland) Act 1985 (c. 66)

18. Section 73(1) of the Bankruptcy (Scotland) Act 1985(**58**) (interpretation) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

(53) Schedule 10 has been amended by section 108(1) of, and paragraph 12 of Schedule 6 to, the Banking Act 1987 (c. 22).

(54) Section 6(4) has been amended by section 108(1) of, and paragraph 14(b) of Schedule 6 to, the Banking Act 1987 (c. 22).

(55) Council Directive No. 77/780/EEC (OJ No. L322, 17.12.77, p.30); article 12 was substituted by Council Directive No. 89/646/EEC (OJ No. L386, 30.12.89, p.1.), article 16.

(56) Section 446(4) was substituted by section 212 of, and paragraph 21 of Schedule 16 to, the Financial Services Act 1986 (c. 60).

(57) Section 13(3) was substituted by section 174(4)(b) of the Financial Services Act 1986 (c. 60).

(58) Section 73(1) has been amended by section 108(1) of, and paragraph 20 of Schedule 6 to, the Banking Act 1987 (c. 22).

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Housing Act 1985 (c. 68)

19. Section 622 of the Housing Act 1985(**59**) (minor definitions: general) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Housing Associations Act 1985 (c. 69)

20. Section 106(1) of the Housing Associations Act 1985(**60**) (minor definitions: general) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I.12))

21. Article 2(2) of the Credit Unions (Northern Ireland) Order 1985(**61**) (interpretation) shall have effect as if the reference in the definition of “authorised bank” to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Building Societies Act 1986 (c. 53)

22. In the Building Societies Act—

- (a) section 7(4)(**62**) (power to raise funds and borrow money);
- (b) section 25(5)(**63**) (the Investor Protection Fund);
- (c) section 98(3)(**64**) (transfers of business: supplementary provisions); and
- (d) in Part IV of Schedule 8 (powers to provide services), paragraph 7(**65**) (interpretation),

shall each have effect as if the reference to an authorised institution for the purposes of, or an institution authorised under, the Banking Act included a reference to a European deposit-taker.

Financial Services Act 1986 (c. 60)

23. In Part I of Schedule 5 to the Financial Services Act (listed money market institutions), paragraph 2(2)(**66**) shall have effect as if the reference to an authorised institution within the meaning of the Banking Act included a reference to a European deposit-taker.

Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I.6))

24. Article 439 of Companies (Northern Ireland) Order 1986(**67**) (investigation of share dealings) shall have effect as if the references in paragraph (4)(c) to (e) to an authorised person within the meaning of the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

(**59**) Section 622 has been amended by section 108(1) of, and paragraph 21 of Schedule 6 to, the Banking Act 1987 (c. 22).
(**60**) Section 106(1) has been amended by section 108(1) of, and paragraph 22 of Schedule 6 to, the Banking Act 1987 (c. 22).
(**61**) Article 2(2) has been amended by section 108(1) of, and paragraph 23(1) of Schedule 6 to, the Banking Act 1987 (c. 22).
(**62**) Section 7(4) has been amended by S.I. 1987/1670.
(**63**) Section 25(5) has been amended by section 108 of, and paragraph 26(2) of Schedule 6 and Part I of Schedule 7 to, the Banking Act 1987 (c. 22).
(**64**) Section 98(3) has been amended by section 108(1) of, and paragraph 26(6) of Schedule 6 to, the Banking Act 1987 (c. 22).
(**65**) Schedule 8 was substituted by S.I. 1988/1141 and subsequently amended by S.I. 1989/839.
(**66**) Paragraph 2(2) has been amended by section 108(1) of, and paragraph 27(6) of Schedule 6 to, the Banking Act 1987 (c. 22).
(**67**) Article 439 has been amended by paragraph 38 of Schedule 16 to the Financial Services Act 1986 (c. 60).

Company Securities (Insider Dealing) (Northern Ireland) Order 1986 (S.I. 1986/1034 (N.I.8))

25. Article 7 of Company Securities (Insider Dealing) (Northern Ireland) Order 1986⁽⁶⁸⁾ (definition of “off-market dealer” etc.) shall have effect as if the reference in paragraph (3) to an authorised person within the meaning of the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Housing (Scotland) Act 1987 (c. 26)

26. Section 338(1) of the Housing (Scotland) Act 1987 (minor definitions: general) shall have effect as if the reference in the definition of “bank” to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Consumer Protection Act 1987 (c. 43)

27. Section 22 of the Consumer Protection Act 1987 (application to provision of services and facilities) shall have effect as if it included provision that references in Part III of that Act to services or facilities shall not include references to services or facilities which are provided by a European institution in the course of carrying on home-regulated investment business in the United Kingdom.

Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987/2049 (N.I. 20))

28. Article 15 of the Consumer Protection (Northern Ireland) Order 1987 (application to provision of services and facilities) shall have effect as if it included provision that references in Part III of that Order to services or facilities shall not include references to services or facilities which are provided by a European institution in the course of carrying on home-regulated investment business in the United Kingdom.

Companies Act 1989 (c. 40)

29. Section 176 of the Companies Act 1989 (power to make provision about certain charges) shall have effect as if the reference in subsection (2) to an authorised person within the meaning of the Financial Services Act included a reference to a European institution carrying on homeregulated investment business in the United Kingdom.

Local Government and Housing Act 1989 (c. 42)

30. Section 43(2) of the Local Government and Housing Act 1989 (borrowing powers) shall have effect as if the reference to an authorised institution within the meaning of the Banking Act included a reference to a European deposit-taker.

Courts and Legal Services Act 1990 (c. 41)

31. In the Courts and Legal Services Act 1990—

- (a) section 37(8) (authorisation of practitioners);
- (b) section 48(4) (investigations on behalf of Board); and
- (c) section 52(6) (Board’s intervention powers: supplemental provisions),

shall each have effect as if the reference to an institution which is authorised by the Bank under Part I of the Banking Act to carry on a deposit-taking business included a reference to a European deposit-taker.

⁽⁶⁸⁾ Article 7(1) to (3) was substituted by Article 27 of the Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I.18)).

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Companies (No.2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I.10))

32. Article 98 of the Companies (No.2) (Northern Ireland) Order 1990 (power to make provision about certain charges) shall have effect as if the reference in paragraph (2) to an authorised person within the meaning of the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Charities Act 1992 (c. 41)

33. Section 18(8) of the Charities Act 1992 (dormant bank accounts of charities) shall have effect as if the reference to an institution which is authorised by the Bank to operate a deposit-taking business under the Banking Act included a reference to a European deposit-taker.

PART II

SUBORDINATE LEGISLATION

National Savings Stock Register Regulations 1976 (S.I. 1976/2012)

34. Regulation 30(1A) of the National Savings Stock Register Regulations 1976(**69**)(minors) shall have effect as if the reference to an authorised institution (within the meaning of the Banking Act) included a reference to a European deposit-taker.

Estate Agents (Accounts) Regulations 1981 (S.I. 1981/1520)

35. In the Schedule to the Estate Agents (Accounts) Regulations 1981 (institutions authorised for keeping of client accounts), paragraph 2 shall have effect as if it included a reference to a European deposit-taker.

Building Societies (Mobile Homes) Order 1986 (S.I. 1986/1877)

36. Article 2 of the Building Societies (Mobile Homes) Order 1986(**70**)(interpretation) shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

Insolvency Regulations 1986 (S.I. 1986/1994)

37. Regulation 2 of the Insolvency Regulations 1986(**71**)(interpretation) shall have effect as if, in the definition of “bank”, the reference to any authorised institution in England and Wales within the meaning of the Banking Act included a reference to a European deposit-taker in England and Wales.

Money Purchase Contracted-out Schemes Regulations 1987 (S.I. 1987/1101)

38. In the Schedule to the Money Purchase Contracted-out Schemes Regulations 1987 (permitted investments), paragraph 4(**72**) shall have effect as if the reference to an institution authorised under Part I of the Banking Act included a reference to a European deposit-taker.

(69) Regulation 30(1A) was inserted by S.I. 1989/2046.

(70) Article 2 has been amended by S.I. 1987/1670.

(71) The definition of “bank” in regulation 2 was inserted by S.I. 1987/1959.

(72) Paragraph 4 was substituted by S.I. 1988/474.

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Local Government Superannuation (Scotland) Regulations 1987 (S.I. 1987/1850)

39. Regulation P6(4)(b)(iii) of the Local Government Superannuation (Scotland) Regulations 1987(73)(use and investment of superannuation fund's moneys) shall have effect as if the reference to an institution authorised for the purposes of section 3 of the Banking Act included a reference to a European deposit-taker.

*Data Protection (Regulation of Financial Services etc.)
(Subject Access Exemption) Order 1987 (S.I. 1987/1905)*

40.—(1) Schedule 1 to the Data Protection (Regulation of Financial Services etc.) (Subject Access Exemption) Order 1987(74)(functions designated for purposes of section 30 of Data Protection Act 1984) shall have effect as if the reference in the last but one entry relating to the Financial Services Act to any person authorised under that Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

(2) That Schedule shall also have effect as if at the end there were inserted the following entry—

“Banking Coordination (Second Council Directive) Regulations 1992	Functions of Bank of England and Building Societies Commission under Regulations.”
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Friendly Societies (Long Term Insurance Business) Regulations 1987 (S.I. 1987/2132)

41. Regulation 34 of the Friendly Societies (Long Term Insurance Business) Regulations 1987 (interpretation) shall have effect as if the reference to an institution authorised, or deemed to be authorised, under the Banking Act on and after the date on which section 3 of that Act comes into force included a reference to a European deposit-taker.

*Money Purchase Contracted-out Schemes Regulations
(Northern Ireland) 1987 (S.R.(N.I.) 1987/279)*

42. In the Schedule to the Money Purchase Contracted-out Schemes Regulations (Northern Ireland) 1987 (permitted investments), paragraph 4(75) shall have effect as if the reference to an institution authorised under Part I of the Banking Act included a reference to a European deposit-taker.

Personal Pension Schemes (Appropriate Schemes) Regulations 1988 (S.I. 1988/137)

43. Regulation 3(3) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1988(76) (bodies which may establish schemes) shall have effect as if the reference to an institution authorised under Part I of the Banking Act included a reference to a European deposit-taker.

*Financial Services Act 1986 (Investment Advertisements)
(Exemptions) Order 1988 (S.I. 1988/316)*

44. Article 9 of the Financial Services Act 1986 (Investment Advertisements) (Exemptions) Order 1988(77) (advertisements issued to persons sufficiently expert to understand the risks

(73) There is an amendment not relevant to these Regulations.

(74) There is an amendment not relevant to these Regulations.

(75) Paragraph 4 was substituted by S.R.(N.I.) 1988/107, regulation 4, and there is another amendment not relevant to these Regulations.

(76) Regulation 3(3) has been amended by S.I. 1988/830.

(77) The relevant amending instrument is S.I. 1992/274.

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involved) shall have effect as if any reference to an authorised person (within the meaning of the Financial Services Act) included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Banking Act 1987 (Advertisements) Regulations 1988 (S.I. 1988/645)

45. Regulation 2 of the Banking Act 1987 (Advertisements) Regulations 1988 (application of Regulations) shall have effect as if the reference in paragraph (7) to a person authorised under Chapter III of Part I of the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Banking Act 1987 (Exempt Transactions) Regulations 1988 (S.I. 1988/646)

46.—(1) In the Banking Act 1987 (Exempt Transactions) Regulations 1988—

- (a) regulation 13(**78**) (relevant debt securities); and
- (b) Schedule 3(**79**) (relevant debt securities),

shall each have effect as if the reference to an authorised institution within the meaning of the Banking Act included a reference to a European deposit-taker.

(2) Regulation 14 of those Regulations(**80**) shall have effect as if—

- (a) the reference in subsection (1) to a person who is an authorised person under the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom; and
- (b) the reference in paragraph (2) to such an authorised person included a reference to a European institution.

Security (Payments on Account, Overpayments and Recovery) Regulations 1988 (S.I. 1988/664)

47. Regulation 10 of the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988(**81**) (conversion of payments made in a foreign currency) shall have effect as if the reference to any institution authorised under the Banking Act included a reference to a European deposit-taker.

Public Companies (Disclosure of Interests in Shares) (Investment Management Exclusion) Regulations 1988 (S.I. 1988/706)

48. Regulation 3 of the Public Companies (Disclosure of Interests in Shares) (Investment Management Exclusion) Regulations 1988 shall have effect as if the reference in paragraph (b) to an authorised person under Chapter III of Part I of the Financial Services Act included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Services Act 1986 (Investment Advertisements) (Exemptions) (No. 2) Order 1988 (S.I. 1988/716)

49. Article 7 of the Financial Services Act 1986 (Investment Advertisements) (Exemptions) (No. 2) Order 1988 (advertisements issued to persons of particular kinds) shall have effect as if the reference in paragraph (1) to an authorised person (within the meaning of the Financial Services

(78) Regulation 13 was substituted by S.I. 1990/20.

(79) Schedule 3 was inserted by S.I. 1989/465, and then substituted by S.I. 1990/20.

(80) There are amendments not relevant to these Regulations.

(81) Regulation 10 has been amended by S.I. 1988/688.

Act) included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

Building Societies (Supplementary Capital) Order 1988 (S.I. 1988/777)

50. In Part III of the Schedule to the Building Societies (Supplementary Capital) Order 1988 (interpretation), paragraph 4 shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915)

51. Regulation 3 of the Control of Misleading Advertisements Regulations 1988 (application) shall have effect as if—

- (a) the reference in paragraph (a) to an authorised person (within the meaning of the Financial Services Act) included a reference to a European institution carrying on homeregulated investment business in the United Kingdom; and
- (b) the reference in that paragraph to the authorised person in question included a reference to the European institution in question.

Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988 (S.R.(N.I.) 1988/34)

52. Regulation 3(3)(c) of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988(**82**) (bodies which may establish schemes) shall have effect as if the reference to an institution authorised under Part I of the Banking Act included a reference to a European deposit-taker.

Security (Payments on Account, Overpayments and Recovery) Regulations (Northern Ireland) 1988 (S.R.(N.I.) 1988/142)

53. Regulation 10 of the Social Security (Payments on Account, Overpayments and Recovery) Regulations (Northern Ireland) 1988 (conversion of payments made in a foreign currency) shall have effect as if the reference to any institution authorised under the Banking Act included a reference to a European deposit-taker.

Consumer Credit (Exempt Agreements) Order 1989 (S.I. 1989/869)

54. Article 2(2) of the Consumer Credit (Exempt Agreements) Order 1989 (exemption of agreements secured on land) shall have effect as if the reference to an authorised institution under the Banking Act included a reference to a European deposit-taker.

Consumer Credit (Advertisements) Regulations 1989 (S.I.1989/1125)

55. Regulation 2(3) of the Consumer Credit (Advertisements) Regulations 1989 (general rules) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

(82) Regulation 3(3)(c) has been amended by S.R.(N.I.) 1988/176.

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Consumer Credit (Quotations) Regulations 1989 (S.I. 1989/1126)

56. Regulation 2(5) of the Consumer Credit (Quotations) Regulations 1989 (form and content of quotations) shall have effect as if the reference to an institution authorised under the Banking Act included a reference to a European deposit-taker.

Collection Fund (England) Regulations 1989 (S.I. 1989/2336)

57. Schedule 2 to the Collection Fund (England) Regulations 1989(**83**) (prescribed investments) shall have effect as if the reference to an institution authorised under Part I of the Banking Act included a reference to a European deposit-taker.

Collection Fund (Wales) Regulations 1989 (S.I. 1989/2363)

58. Schedule 2 to the Collection Fund (Wales) Regulations 1989(**84**) (prescribed investments) shall have effect as if the reference to an institution authorised under Part I of the Banking Act included a reference to a European deposit-taker.

Local Authorities (Capital Finance) (Approved Investments) Regulations 1990 (S.I. 1990/426)

59. Regulation 2 of the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990(**85**) (approved investments) shall have effect as if the reference to an authorised institution within the meaning of the Banking Act included a reference to a European deposit-taker.

Building Societies (Designation of Qualifying Bodies) Order 1990 (S.I. 1990/1434)

60. In Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) Order 1991 (interpretation, paragraph 7 shall have effect as if each reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

Building Societies (Designation of Qualifying Bodies) Order 1991 (S.I. 1991/357)

61. In Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) Order 1991 (interpretation, paragraph 4(2)(c) shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

Building Societies (Designated Capital Resources) (Permanent Interest Bearing Shares) Order 1991 (S.I. 1991/702)

62. Article 4(4) of the Building Societies (Designated Capital Resources) (Permanent Interest Bearing Shares) Order 1991 (interpretation) shall have effect as if the reference to institutions authorised for the purposes of the Banking Act included a reference to European deposit-takers.

Building Societies (Designation of Qualifying Bodies) (No.2) Order 1991 (S.I. 1991/2581)

63. In Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) (No.2) Order 1991 (interpretation, paragraph 3(2) shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

(83) There are amendments not relevant to these Regulations.

(84) There are amendments not relevant to these Regulations.

(85) There are amendments not relevant to these Regulations.

Insolvency Regulations (Northern Ireland) 1991 (S.R.(N.I.) 1991/388)

64. Regulation 2 of the Insolvency Regulations (Northern Ireland) 1991 (interpretation) shall have effect as if, in the definition of “bank”, the reference to any authorised institution in Northern Ireland within the meaning of the Banking Act included a reference to a European deposit-taker in Northern Ireland.

Building Societies (Designation of Qualifying Bodies) Order 1992 (S.I. 1992/649)

65. In Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) Order 1992 (interpretation, paragraph 6(2) shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

Building Societies (Designation of Qualifying Bodies) (No.2) Order 1992 (S.I. 1992/650)

66. In Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) (No.2) Order 1992 (interpretation, paragraph 3(2) shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

Building Societies (Designation of Qualifying Bodies) (No.3) Order 1992 (S.I. 1992/651)

67. In Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) (No.3) Order 1992 (interpretation, paragraph 4(2) shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

Building Societies (Designation of Qualifying Bodies) (No.4) Order 1992 (S.I. 1992/652)

68. In Part II of the Schedule to the Building Societies (Designation of Qualifying Bodies) (No.4) Order 1992 (interpretation, paragraph 6(2) shall have effect as if the reference to an authorised institution for the purposes of the Banking Act included a reference to a European deposit-taker.

SCHEDULE 11

Regulation 83.

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

RECOGNITION OF INSTITUTIONS

European authorised institutions

1.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of another member State which immediately before the commencement date is authorised to act as a credit institution by the relevant supervisory authority in that State.

(2) If an institution to which this paragraph applies—

- (a) is immediately before the commencement date carrying on in the United Kingdom by the provision of services any home-regulated activity; or
- (b) has established in the United Kingdom for the purpose of carrying on such an activity a branch which immediately before that date is in existence,

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it shall be treated for all purposes of these Regulations as if the requirements of paragraph 1 of Schedule 2 to these Regulations had been complied with in relation to its carrying on of the activity or, as the case may be, its establishment of the branch.

UK authorised institutions

2.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of any part of the United Kingdom which immediately before the commencement date is authorised by the Bank under the Banking Act⁽⁸⁶⁾ or by the Commission under the Building Societies Act⁽⁸⁷⁾.

(2) If an institution to which this paragraph applies—

- (a) is immediately before the commencement date carrying on in another member State by the provision of services any listed activity; or
- (b) has established in another member State for the purpose of carrying on such an activity a branch which immediately before that date is in existence,

it shall be treated for all purposes of these Regulations as if the requirements of paragraph 1 of Schedule 6 to these Regulations had been complied with in relation to its carrying on of the activity or, as the case may be, its establishment of the branch.

3.—(1) An institution which by virtue of paragraph 2 above is treated as if the requirements of paragraph 1 of Schedule 6 to these Regulations had been complied with in relation to its carrying on of one or more listed activities shall, before the end of the period of three months beginning with the commencement date, give to the UK authority a notice stating the activity or activities in question.

(2) An institution which by virtue of paragraph 2 above is treated as if the requirements of paragraph 1 of Schedule 6 to these Regulations had been complied with in relation to its establishment of a branch shall, before the end of the period of three months beginning with the commencement date, give to the UK authority a notice stating the requisite details of the branch.

(3) An institution which fails to comply with sub-paragraph (1) or (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART II

AMENDMENTS OF BANKING ACT

Requirement as to minimum initial capital

4.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of any part of the United Kingdom which immediately before the commencement date is authorised by the Bank under the Banking Act.

(2) Paragraph 4(3A) of Schedule 3 to the Banking Act (c) (institution to have own funds amounting to ecu 5 million or equivalent) shall have effect in relation to an institution to which this paragraph applies as if the reference to ecu 5 million were a reference to the relevant amount.

(3) Subject to sub-paragraphs (4) to (7) below, the relevant amount is the amount of own funds which the institution has on the commencement date.

⁽⁸⁶⁾ 1987 c. 22.

⁽⁸⁷⁾ 1986 c. 53.

(4) If, at any time after 22nd December 1989, the institution had or has own funds of a greater amount than the amount of its own funds on the commencement date, the relevant amount is that greater amount, or ecu 5 million, whichever is the less.

(5) Subject to sub-paragraph (6) below if, at any time after the commencement date, there is any change in the person who is the parent controller of the institution (not being a parent controller which is a subsidiary undertaking of another parent controller of the institution) the relevant amount is ecu 5 million.

(6) If—

- (a) the institution merges with another institution which is also an institution to which this paragraph applies; and
- (b) the Bank is satisfied that in the circumstances the merged institution need not have own funds amounting to not less than ecu 5 million,

then, subject to sub-paragraph (7) below, the relevant amount in relation to the merged institution is the aggregate own funds of the merging institutions on the date of the change, or ecu 5 million, whichever is the less.

(7) If, at any time after the commencement date, the merged institution has own funds of ecu 5 million or more, the relevant amount is ecu 5 million.

(8) Any reference in this paragraph to ecu 5 million includes a reference to an amount of equal value denominated wholly or partly in a different unit of account.

Revocation of authorisation

5.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of any part of the United Kingdom which immediately before the commencement date is authorised by the Bank under the Banking Act.

(2) If an institution to which this paragraph applies is immediately before the commencement date carrying on in the United Kingdom or elsewhere a listed activity (other than the acceptance of deposits from the public), it shall be treated for the purposes of subsection (1A)(b) of section 11 of the Banking Act(88) (revocation of authorisation) as if it had given prior notice to the Bank of its intention to carry on that activity.

Restriction of authorisation

6.—(1) This paragraph applies to a credit institution incorporated in or formed under the law of another member State which immediately before the commencement date—

- (a) is authorised to act as a credit institution by the relevant supervisory authority in that State; and
- (b) is authorised by the Bank under the Banking Act.

(2) Subject to sub-paragraph (3) below, if immediately before the commencement date the authorisation of an institution to which this paragraph applies is subject to a restriction under section 12 of the Banking Act (restriction of authorisation), the restriction shall, if and to the extent that it is capable after that date of being imposed under regulation 10 of these Regulations, have effect as if it had been so imposed.

(3) If the restriction under that section imposes a limit on the duration of the authorisation, the restriction shall, at the time when (but for these Regulations) the authorisation would have

(88) 1987 c. 22; section 11(1A) is inserted by regulation 28(1) of these Regulations.

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expired, have effect as if it were a prohibition imposed on the institution under regulation 9 of these Regulations.

(4) The Bank shall, as soon as practicable after the commencement date, give written notice of every restriction under that section having effect as mentioned in sub-paragraph (2) or (3) above—

- (a) to the institution;
- (b) to the relevant supervisory authority in the institution's home State; and
- (c) to every other authority which the Bank knows is a connected UK authority.

Information and documents

7. Where a notice served on an institution to which paragraph 6 above applies under—

- (a) section 39 of the Banking Act (power to obtain information and require production of documents); or
- (b) section 41 of that Act (investigations on behalf of Bank),

is in force immediately before the commencement date, the notice shall have effect on and after that date as if it had been served under that section as extended by paragraph 8 or, as the case may be, paragraph 10 of Schedule 8 to these Regulations.

PART III

AMENDMENTS OF FINANCIAL SERVICES ACT

Preliminary

8.—(1) Any reference in this Part of this Schedule to a statement of principle or to rules or regulations is a reference to a statement of principle issued, or to rules or regulations made, before the commencement date.

(2) Expressions used in this Part of this Schedule which are also used in Schedule 9 to these Regulations have the same meanings as in that Schedule.

Statements of principle

9.—(1) A statement of principle issued under section 47A of the Financial Services Act(89) shall, unless the contrary intention appears, apply to a European institution carrying on home-regulated investment business in the United Kingdom to the same extent as it would apply if the institution were an authorised person as respects that business.

(2) If the Board is satisfied that it is necessary to do so for the purpose of implementing the Second Council Directive so far as relating to any particular European institution, the Board may, on the application or with the consent of the institution, by order direct that all or any of the provisions of such a statement—

- (a) shall not apply to the institution; or
- (b) shall apply to it with such modifications as may be specified in the order.

(89) Section 47A was inserted by section 192 of the Companies Act 1989 (c. 40).

Conduct of business rules

10.—(1) Rules made under section 48 of the Financial Services Act⁽⁹⁰⁾ (conduct of business rules) shall, unless the contrary intention appears, apply in relation to the conduct of homeregulated investment business carried on by a European institution in the United Kingdom to the same extent as they would apply if the institution were an authorised person as respects that business.

(2) If the Board is satisfied that it is necessary to do so for the purpose of implementing the Second Council Directive so far as relating to any particular European institution, the Board may, on the application or with the consent of the institution, by order direct that all or any of the provisions of such rules—

- (a) shall not apply in relation to the conduct of home-regulated investment business carried on by the institution; or
- (b) shall apply in relation to the conduct of such business with such modifications as may be specified in the order.

(3) A member of a recognised self-regulating organisation who contravenes a rule applying to him by virtue of this paragraph shall be treated as having contravened the rules of the organisation.

Financial resources rules

11. If the Board is satisfied that it is necessary to do so for the purpose of implementing the Second Council Directive so far as relating to any particular institution which is a European institution and an authorised person, the Board may, on the application or with the consent of the institution, by order direct that all or any of the provisions of rules under section 49 of the Financial Services Act⁽⁹¹⁾ (financial resources rules)—

- (a) shall not apply to the institution; or
- (b) shall apply to it with such modifications as may be specified in the order.

Cancellation rules

12.—(1) Rules made under section 51 of the Financial Services Act (cancellation rules) shall, unless the contrary intention appears, apply in relation to a person who has entered or offered to enter into an investment agreement to which sub-paragraph (2) below applies as they apply in relation to a person mentioned in that section.

(2) This sub-paragraph applies to an investment agreement which is made by a European institution in the course of the carrying on by it of home-regulated investment business in the United Kingdom.

Notification regulations

13.—(1) Regulations made under section 52 of the Financial Services Act⁽⁹²⁾ (notification regulations) shall, unless the contrary intention appears, apply in relation to a European institution carrying on home-regulated investment business in the United Kingdom to the same extent as they would apply if the institution were an authorised person as respects that business.

(2) If the Board is satisfied that it is necessary to do so for the purpose of implementing the Second Council Directive so far as relating to any particular European institution, the Board may, on

⁽⁹⁰⁾ Section 48 has been amended by sections 206 and 212 of, and Schedules 23 and 24 to, the Companies Act 1989 (c. 40).

⁽⁹¹⁾ Section 49 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

⁽⁹²⁾ Section 52 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

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the application or with the consent of the institution, by order direct that all or any of the provisions of such regulations—

- (a) shall not apply to the institution; or
- (b) shall apply to it with such modifications as may be specified in the order.

Compensation fund

14.—(1) Rules under section 54 of the Financial Services Act (compensation fund) shall, unless the contrary intention appears, apply in cases where a person who is or has been a European institution is unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred by it in connection with home-regulated investment business carried on by it in the United Kingdom to the same extent as they would apply if the institution were an authorised person as respects that business.

(2) If the Board is satisfied that it is necessary to do so for the purpose of implementing the Second Council Directive so far as relating to any particular person who is or has been a European institution, the Board may, on the application or with the consent of that person, by order direct that all or any of the provisions of such rules—

- (a) shall not apply in relation to cases where that person is unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred by it in connection with home-regulated investment business carried on by it; or
- (b) shall apply in relation to such cases with such modifications as may be specified in the order.

Clients' money

15.—(1) Regulations under section 55 of the Financial Services Act⁽⁹³⁾ (clients' money) shall, unless the contrary intention appears, apply in relation to money which a European institution holds in the course of home-regulated investment business carried on by it in the United Kingdom to the same extent as they would apply if the institution were an authorised person as respects that business.

(2) If the Board is satisfied that it is necessary to do so for the purpose of implementing the Second Council Directive so far as relating to any particular European institution, the Board may, on the application or with the consent of the institution, by order direct that all or any of the provisions of such regulations—

- (a) shall not apply in relation to money which the institution holds in the course of homeregulated investment business carried on by it; or
- (b) shall apply in relation to such money with such modifications as may be specified in the order.

(3) A member of a recognised self-regulating organisation who contravenes a regulation applying to him by virtue of this paragraph shall be treated as having contravened the rules of the organisation.

Unsolicited calls

16.—(1) Regulations under section 56 of the Financial Services Act⁽⁹⁴⁾ (unsolicited calls) shall, unless the contrary intention appears, apply in relation to a European institution carrying on home-regulated investment business in the United Kingdom to the same extent as they would apply if the institution were an authorised person.

⁽⁹³⁾ Section 55 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

⁽⁹⁴⁾ Section 56 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(2) A member of a recognised self-regulating organisation who contravenes a regulation applying to him by virtue of this paragraph shall be treated as having contravened the rules of the organisation.

Supplemental

17.—(1) An order under this Part of this Schedule may be subject to conditions.

(2) Such an order may be revoked at any time by the Board; and the Board may at any time vary any such order on the application or with the consent of the European institution to which it applies

PART IV

AMENDMENTS OF BUILDING SOCIETIES ACT

Requirements as to qualifying capital and own funds

18.—(1) This paragraph applies to a building society which immediately before the commencement date is authorised by the Commission under the Building Societies Act(95).

(2) In relation to a society to which this paragraph applies—

- (a) sections 41(6)(a) and 44(4)(a) of the Building Societies Act (society to have on renewal of authorisation or reauthorisation qualifying capital of not less than the prescribed minimum); and
- (b) the first criterion in section 45(3) of that Act(96) (society to have own funds amounting to not less than that minimum),

shall have effect as if the reference to the prescribed minimum were a reference to the relevant amount.

(3) Subject to sub-paragraphs (4) to (6) below, the relevant amount for the purposes of subparagraph (2)(a) above is the amount of qualifying capital which the society has on the commencement date.

(4) If, at any time after 22nd December 1989, the society had or has qualifying capital of a greater amount than the amount of its qualifying capital on the commencement date, the relevant amount is that greater amount, or the prescribed minimum, whichever is the less.

(5) If—

- (a) the society merges with another society which is also a society to which this paragraph applies; and
- (b) the Commission is satisfied that in the circumstances the merged society need not have qualifying capital amounting to not less than the prescribed minimum,

then, subject to sub-paragraph (6) below, the relevant amount in relation to the merged society is the aggregate qualifying capital of the merging societies on the date of the change, or the prescribed minimum, whichever is the less.

(6) If, at any time after the commencement date, the merged society has qualifying capital of not less than the prescribed minimum, the relevant amount is the prescribed minimum.

(7) Sub-paragraphs (3) to (6) above shall apply for the purposes of sub-paragraph (2)(b) above with the following modifications, namely, that for the references to qualifying capital there shall be substituted references to own funds.

(95) 1986 c. 53.

(96) Section 45(3) is amended by regulation 73 of these Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(8) In this paragraph “the prescribed minimum” and “qualifying capital” have the meanings given by section 9(13) of the Building Societies Act⁽⁹⁷⁾.

(9) A society merges with another for the purposes of this paragraph if either—

- (a) it amalgamates with the other by establishing a building society as their successor under section 93 of the Building Societies Act (amalgamations); or
- (b) it transfers all of its engagements to the other under section 94 of that Act (transfers of engagements);

and references in this paragraph to the merged society or the merging societies shall be construed accordingly.

Revocation of authorisation

19.—(1) This paragraph applies to a building society which immediately before the commencement date is authorised by the Commission under the Building Societies Act.

(2) If a society to which this paragraph applies is immediately before the commencement date carrying on in the United Kingdom or elsewhere a listed activity (other than the acceptance of deposits or other repayable funds from the public), it shall be treated for the purposes of subsection (1A)(b) of section 43 of the Building Societies Act⁽⁹⁸⁾ (revocation of authorisation) as if it had given prior notice to the Commission of its intention to carry on that activity.

⁽⁹⁷⁾ Section 9(13) is amended by regulation 68(2) of these Regulations.

⁽⁹⁸⁾ Section 43(1A) is inserted by regulation 71(1) of these Regulations.