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**STATUTORY INSTRUMENTS**

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**2000 No. 2952****BANKS AND BANKING****The Banking Consolidation Directive (Consequential Amendments) Regulations 2000**

*Made* - - - - - *1st November 2000*

*Laid before Parliament* *1st November 2000*

*Coming into force* - - *22nd November 2000*

Whereas the Treasury are a government department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to credit and financial institutions and to the taking of deposits or other repayable funds from the public;

Now, therefore, the Treasury, in exercise of the powers conferred on them by that section, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Banking Consolidation Directive (Consequential Amendments) Regulations 2000, and shall come into force on 22nd November 2000.

**Amendment of the Companies Act 1985**

2.—(1) The Companies Act 1985(c) is amended as follows.

(2) In section 220(1)(d), in the definition of “authorised credit institution”, for “Council Directive 77/780/EEC” there is substituted “Directive 2000/12/EC of the European Parliament and of the Council”(e).

(3) In sections 262(1)(f) and 699A(3)(g), for the definition of “credit institution” there is substituted:

““credit institution” means a credit institution as defined in article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions, that is to say an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account;”.

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(a) S.I. 1990/1304.

(b) 1972 c. 68.

(c) 1985 c. 6.

(d) Original text substituted by S.I. 1993/1819, regulations 2 and 9.

(e) OJ No. L 126, 26.5.2000.

(f) Section 262 inserted by the Companies Act 1989, section 22. Definition of “credit institution” substituted by S.I. 1992/3178, regulations 7 and 8(b).

(g) Inserted by S.I. 1992/3179, regulation 2(1).

### **Amendment of the Building Societies Act 1986**

3.—(1) The Building Societies Act 1986(a) is amended as follows.

(2) In section 27(8)(a)(b), for “by Article 2 of Directive 89/229/EEC” there is substituted “in Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive”.

(3) In section 43(1A)(f)(c), for “the Second Council Directive or” there is substituted “those provisions of the Banking Consolidation Directive which were previously comprised in Directive 89/646/EEC, or of”.

(4) In section 45A(1)(d), for “the Second Council Directive” there is substituted “those provisions of the Banking Consolidation Directive which were previously comprised in Directive 89/646/EEC”.

(5) In section 53, in subsections (4)(a)(e) and (6)(b)(f), for “article 12(7) of the First Council Directive” there is substituted “article 30(9) of the Banking Consolidation Directive”.

(6) In section 119:

(a) in subsection (2A)(g), the expressions:

(i) “the First Council Directive;” and

(ii) “the Second Council Directive;”

are omitted;

(b) for subsection (2B)(h), there is substituted:

“(2B) In this Act “The Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions.”; and

(c) in subsection (2C), for “those Regulations” there is substituted “the Financial Institutions (Prudential Supervision) Regulations 1996(i)”.

### **Amendment of the Financial Services Act 1986**

4. In paragraph 3(2) of Schedule 11A to the Financial Services Act 1986(j):

(a) in the definition of “credit institution”, for “Council Directive No 77/80/EEC” there is substituted “Directive 2000/12/EC of the European Parliament and of the Council”; and

(b) in the definition of “financial institution”, for “Council Directive No 89/646/EEC” there is substituted “Directive 2000/12/EC of the European Parliament and of the Council”.

### **Amendment of the Banking Act 1987**

5.—(1) The Banking Act 1987(k) is amended as follows.

(2) In section 11(1A)(f)(l), for “the Second Council Directive or” there is substituted “those provisions of the Banking Consolidation Directive which were previously comprised in Directive 89/646/EEC, or of”.

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(a) 1986 c. 53.

(b) Original text substituted by S.I. 1995/1442, regulation 40(7).

(c) Inserted by S.I. 1992/3218, regulation 71(1).

(d) Inserted by S.I. 1992/3218, regulation 74.

(e) Original text substituted by S.I. 1992/3218, regulation 76(3).

(f) Original text substituted by S.I. 1992/3218, regulation 76(5).

(g) Inserted by S.I. 1992/3218, regulation 81. Amendments not relevant to this amendment inserted by S.I. 1995/1442, regulation 52(1).

(h) Subsections (2B) and (2C) Inserted by S.I. 1996/1669, Schedule 5, paragraph 5.

(i) S.I. 1996/1669.

(j) 1986 c. 60. Paragraph 3(2) was inserted by S.I. 1995/1537, regulation 17, Schedule 2, para 2(2), Schedule 3.

Amendments not relevant to this amendment inserted by S.I. 1999/734, regulation 4(d).

(k) 1987 c. 22.

(l) Subsection (1A) inserted by S.I. 1992/3218, regulation 28(1).

(3) In section 12A(1)(a), for “the Second Council Directive” there is substituted “those provisions of the Banking Consolidation Directive which were previously comprised in Directive 89/646/EEC”.

(4) In section 26A(1)(b), for “article 9(4) of the Second Council Directive” there is substituted “article 23(5) of the Banking Consolidation Directive”.

(5) In sections 52(4)(b)(c) and 60(6)(b)(d), for “Article 2 of Directive 89/299/EEC” there is substituted “Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive”.

(6) In section 84, in subsections (5) and (5A)(e), for “article 12(7) of the First Council Directive” there is substituted “article 30(9) of the Banking Consolidation Directive”.

(7) In section 106:

(a) in subsection (2A)(f), the expressions:

(i) “the First Council Directive;” and

(ii) “the Second Council Directive;”

are omitted;

(b) for subsection (2B)(g), there is substituted:

“(2B) In this Act “The Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions.”; and

(c) in subsection (2C), for “those Regulations” there is substituted “the Financial Institutions (Prudential Supervision) Regulations 1996”.

#### **Amendment of the Criminal Justice Act 1993**

6. In section 70 of the Criminal Justice Act 1993(h):

(a) in subsection 2:

(i) in paragraph (a), for “Article 15 of the Second Banking Co-ordination Directive” there is substituted “Article 29 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions”; and

(ii) in paragraph (b), for “Articles 3, 6 and 7 of the Supervision of Credit Institutions Directive” there is substituted “Articles 52, 55 and 56 of that Directive”; and

(b) subsection (3) is omitted.

#### **Amendment of the Bank of England Act 1998**

7. In section 17(3)(f) of the Bank of England Act 1998(i), for “Article 1 of Council Directive 92/30/EEC” there is substituted “Article 1(21) of Directive 2000/12/EC of the European Parliament and of the Council”.

#### **Amendment of the Financial Services and Markets Act 2000**

8.—(1) The Financial Services and Markets Act 2000(j) is amended as follows.

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(a) Section 12A inserted by S.I. 1992/3218, regulation 29. Amendments not relevant to this amendment inserted by the Bank of England Act 1998, Schedule 5.

(b) Inserted by S.I. 1992/3218, regulation 32(1).

(c) Substituted by S.I. 1995/1442, regulation 27(3).

(d) Substituted by S.I. 1995/1442, regulation 32(3).

(e) Subsections 5 and 5A were substituted by S.I. 1992/3218, regulation 39(2). Amendments not relevant to this amendment made by the Bank of England Act 1998, Schedule 5, paragraph 54(5).

(f) Inserted by S.I. 1992/3218, regulation 45(2).

(g) Inserted by S.I. 1996/1699, Schedule 5, paragraph 2.

(h) 1993 c. 36.

(i) 1998 c. 11.

(j) 2000 c. 8.

(2) In section 203(10), in the definition of “listed activity”, for “the Annex to the second banking co-ordination directive” there is substituted “Annex 1 to the banking consolidation directive”.

(3) In section 405(5)(b), for “Article 9(4) of the second banking co-ordination directive;” there is substituted “Article 23(5) of the banking consolidation directive;”.

(4) In section 425(1)(a), for ““second banking co-ordination directive”” there is substituted ““banking consolidation directive””.

(5) In Schedule 3:

(a) in paragraph 1, for sub-paragraphs (a) and (b) there is substituted:

“(a) the banking consolidation directive;”;

(b) for paragraph 2 there is substituted:

“2. “The banking consolidation directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”;

(c) in paragraph 5:

(i) for sub-paragraph (b) there is substituted:

“(b) a credit institution (as defined in Article 1 of the banking consolidation directive) which is authorised (within the meaning of Article 1) by its home state regulator;”;

(ii) for sub-paragraph (c) there is substituted:

“(c) a financial institution (as defined in Article 1 of the banking consolidation directive) which is a subsidiary of the kind mentioned in Article 19 and which fulfils the conditions in Articles 18 and 19; or”;

(d) in paragraph 19(6), for “second banking coordination directive” there is substituted “banking consolidation directive”;

(e) in paragraph 20(3), for “a banking co-ordination directive” there is substituted “the banking consolidation directive”; and

(f) in paragraph 24(1)(b), for “Article 18.2 of the second banking co-ordination directive” there is substituted “Article 19 of the banking consolidation directive”.

(6) In paragraph 20 of Schedule 11:

(a) in sub-paragraph (4), for “Council Directive No 77/780/EEC” there is substituted “the banking consolidation directive”; and

(b) in sub-paragraph (5), for “Council Directive No 89/646/EEC” there is substituted “the banking consolidation directive”.

#### **Amendment of the Terrorism Act 2000**

9. In Schedule 6 to the Terrorism Act 2000(a):—

(a) in paragraph 6(1)(g), for “the Second Council Directive on the co-ordination of laws, regulations and administrative provisions” there is substituted “Directive 2000/12/EC of the European Parliament and of the Council”.

(b) in paragraph 6(1)(h), for “the Annex” there is substituted “Annex 1”.

#### **Amendment of the Banking Co-ordination (Second Council Directive) Regulations 1992**

10.—(1) The Banking Co-ordination (Second Council Directive) Regulations 1992(b) are amended as follows.

(2) In regulation 2(1):

(a) after the definition of “the Bank” there is inserted:

““the Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”;

(b) in the definition of “credit institution”, for “First Council Directive” there is substituted “Banking Consolidation Directive”;

(a) 2000 c. 11.

(b) S.I. 1992/3218; relevant amending instruments are S.I. 1996/1669 and S.I. 1999/2094.

- (c) in the definition of “financial institution”:
  - (i) for “Second Council Directive” there is substituted “Banking Consolidation Directive”; and
  - (ii) for “the Annex” there is substituted “Annex 1 to the Banking Consolidation Directive”;
- (d) in the definition of “initial capital”, for “article 2(1) of the Council Directive on the own funds of credit institutions (No. 89/299/EEC)” there is substituted “article 34(2) of the Banking Consolidation Directive”;
- (e) in the definition of “listed activity”, for “the Annex to the Second Council Directive” there is substituted “Annex 1 to the Banking Consolidation Directive”;
- (f) in the definition of “own funds”, for “the Council Directive on the own funds of credit institutions (No. 89/299/EEC)” there is substituted “Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive”; and
- (g) the definitions of:
  - (i) “the First Council Directive”;
  - (ii) “the Second Council Directive”; and
  - (iii) “the Solvency Ratio Directive”are omitted.

(3) In regulation 2, after paragraph (1) there is inserted the following paragraph:

“(1A) Any reference in these Regulations to:

- (a) the Second Council Directive; or
- (b) the Solvency Ratio Directive,

shall be construed as a reference to the Banking Consolidation Directive, and shall be read in accordance with the correlation table in Annex VI to the Banking Consolidation Directive.”; and paragraph (2B) is omitted.

(4) In regulation 2B(3)(a) and (b)(a), for “the Annex to the Second Council Directive” there is substituted “Annex 1 to the Banking Consolidation Directive”.

(5) In regulation 50(1)(c), for “article 18(2) of the Second Council Directive” there is substituted “article 19 of the Banking Consolidation Directive”.

(6) In paragraph 45(3)(b) of Schedule 9, for “article 21 of the Second Council Directive” there is substituted “article 22 of the Banking Consolidation Directive”.

### **Amendment of the Money Laundering Regulations 1993**

**11.—**(1) The Money Laundering Regulations 1993(b) are amended as follows.

(2) In regulation 2(1), after the definition of “applicant for business” there is inserted:

““the Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”.

(3) In regulation 4(1)(h), for “the Annex to the Second Banking Co-ordination Directive” there is substituted “Annex 1 to the Banking Consolidation Directive”.

(4) In regulation 4(4), the definition of “the Second Banking Co-ordination Directive” is omitted.

(5) In regulation 8(5), for the definition of “authorised credit institution” there is substituted:

““authorised credit institution” means a credit institution, as defined in Article 1 of the Banking Consolidation Directive, which is authorised to carry on the business of a credit institution by a competent authority of a member State;”.

### **Amendment of the Insurance Companies Regulations 1994**

**12.—**(1) The Insurance Companies Regulations 1994(c) are amended as follows.

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(a) Inserted by S.I. 1999/2094, regulation 2(1) and (3).

(b) S.I. 1993/1933; to which there are amendments not relevant to these Regulations.

(c) S.I. 1994/1516; relevant amending instrument is S.I. 1995/3248.

- (2) In regulation 2(1), after the definition of “the Act” there is inserted:  
 ““the Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”.
- (3) In regulation 44(1), for the definition of “approved credit institution” there is substituted:  
 ““approved credit institution” means an institution recognised or permitted under the law of an EEA state to carry on any of the activities set out in Annex 1 to the Banking Consolidation Directive;”.
- (4) In:-
- (a) regulation 44(1), in the definition of “approved securities”;
  - (b) regulation 45(5);
  - (c) regulation 55(7)(a)(iv)(a);
  - (d) regulation 57(5)(e)(b); and
  - (e) paragraph 14(b) of Schedule 10(c)

for “Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions” there is substituted “the Banking Consolidation Directive”.

#### **Amendment of the Friendly Societies (Insurance Business) Regulations 1994**

**13.—**(1) The Friendly Societies (Insurance Business) Regulations 1994(d) are amended as follows.

- (2) In regulation 2(1), after the definition of “authorisation” there is inserted:  
 ““the Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”.
- (3) In regulation 19(1), for the definition of “approved credit institution” there is substituted:  
 ““approved credit institution” means an institution recognised or permitted under the law of an EEA state to carry on any of the activities set out in Annex 1 to the Banking Consolidation Directive;”.
- (4) In:
- (a) regulation 19(1), in the definition of “approved securities”;
  - (b) regulation 20(5)(e);
  - (c) regulation 30(7)(a)(iv)(f);
  - (d) regulation 32(5)(e)(g); and
  - (e) paragraph 14(b) of Schedule 10(h)

for “Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions” there is substituted “the Banking Consolidation Directive”.

#### **Amendment of the Investment Services Regulations 1995**

**14.—**(1) The Investment Services Regulations 1995(i) are amended as follows.

- (2) In regulation 2(1):
- (a) after the definition of “the Bank”, there is inserted:  
 ““the Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”;
  - (b) in the definition of “credit institution”, for “First Council Directive” there is substituted “Banking Consolidation Directive”;

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(a) Regulation 55 was substituted by S.I. 1995/3248, regulation 10.  
 (b) Regulation 57 was substituted by S.I. 1995/3248, regulation 12.  
 (c) Schedule 10 was substituted by S.I. 1995/3248, regulation 19, Schedule 1.  
 (d) S.I. 1994/1981; relevant amending instrument is 1996/3008.  
 (e) Paragraph 5 amended by S.I. 1996/3008, regulation 6(3).  
 (f) Regulation 30 substituted by S.I. 1996/3008, regulation 13.  
 (g) Regulation 32 substituted by S.I. 1996/3008, regulation 15.  
 (h) Part III of Schedule 6 substituted by S.I. 1996/3008, regulation 27, Schedule 2.  
 (i) S.I. 1995/3275; relevant amending instrument is 1996/1669.

- (c) in the definition of “European authorised institution”, for “the First Council Directive and the Second Council Directive” there is substituted “the Banking Consolidation Directive”; and
  - (d) the definitions of:
    - (i) “the First Council Directive”; and
    - (ii) “the Second Council Directive”are omitted.
- (3) In regulation 2, after paragraph (1) there is inserted the following paragraph:  
“(1A) Any reference in these Regulations to the Second Council Directive shall be construed as a reference to the Banking Consolidation Directive, and shall be read in accordance with the correlation table in Annex VI to the Banking Consolidation Directive.”;  
and paragraph (2B) is omitted.

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

**15.**—(1) The Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000(a) are amended as follows.

- (2) In paragraph 1 of the Schedule:-
- (a) for the definition of “credit institution” there is substituted:  
““credit institution” means a credit institution for the purposes of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”;
  - (b) for the definition of “financial institution” there is substituted:-  
““financial institution” means a financial institution for the purposes of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”.

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

**16.**—(1) The Competition Act 1998 (Determination of Turnover for Penalties) Order 2000(b) is amended as follows.

- (2) In paragraph 1 of the Schedule:-
- (a) for the definition of “credit institution” there is substituted:  
““credit institution” means a credit institution for the purposes of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”;
  - (b) for the definition of “financial institution” there is substituted:-  
““financial institution” means a financial institution for the purposes of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;”.

#### **Miscellaneous Amendments**

**17.** The enactments listed in the first column of the Schedule to these Regulations are amended to the extent specified in the second column of the Schedule.

1st November 2000

*Bob Ainsworth*  
*Greg Pope*  
Two of the Lords Commissioners  
of Her Majesty’s Treasury

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(a) S.I. 2000/262.  
(b) S.I. 2000/309.

## SCHEDULE

Regulation 16

<i>Enactment</i>	<i>Commencement</i>
The Uncertified Securities Regulations 1995(a)	In paragraph 1(1)(b) and (2) of Schedule 2, for “Council Directive 89/646/EEC” there is substituted “Directive 2000/12/EC of the European Parliament and of the Council”.
The Cash Ratio Deposits (Eligible Liabilities) Order 1998(b)	In regulation 2(3), for “Article 2 of Council Directive 89/299/EEC” there is substituted “Directive 2000/12/EC of the European Parliament and of the Council”.
The Cross-Border Credit Transfers Regulations 1999(c)	In regulation 2(1), in the definition of “credit institution”, for “Council Directive No 77/780/EEC” there is substituted “Directive 2000/12/EC of the European Parliament and of the Council”.
The Financial Markets and Insolvency (Settlement Finality) Regulations 1999(d)	In regulation 2(1), for the definition of “credit institution” there is substituted ““credit institution” means a credit institution as defined in Article 1 of Directive 2000/12/EC of the European Parliament and of the Council, including the bodies set out in the list in Article 2(3);”;

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make consequential amendments to give effect to Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions. That Directive codifies and repeals Council Directives 73/183/EEC, 77/780/EEC, 89/299/EEC, 89/646/EEC, 89/647/EEC, 92/30/EEC and 92/121/EEC. These Regulations make the necessary changes to United Kingdom enactments which refer to the repealed Directives.

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- (a) S.I. 1995/3272, to which there are amendments not relevant to these Regulations.  
 (b) S.I. 1998/1130.  
 (c) S.I. 1999/1876.  
 (d) S.I. 1999/2979.

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