

**2002 No. 765**

**FINANCIAL SERVICES AND MARKETS**

**BANKS AND BANKING**

**The Electronic Money (Miscellaneous Amendments)  
Regulations 2002**

*Made* - - - - - *21st March 2002*  
*Laid before Parliament* *21st March 2002*  
*Coming into force* - - *27th April 2002*

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—

- (i) section 2(2) of the European Communities Act 1972, and
- (ii) paragraph 13(1)(b)(iii) of Schedule 3 to, and sections 417(1)(c) and 428(3) of, the Financial Services and Markets Act 2000(d),

hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Electronic Money (Miscellaneous Amendments) Regulations 2002, and come into force on 27th April 2002.

*Amendments to primary legislation*

**The Companies Act 1985**

2.—(1) In section 209 of the Companies Act 1985(e) (interests in shares to be disregarded for purposes of disclosure requirements), at the end of paragraph (b) of subsection (2) insert “which falls within article 1(1)(a) of the banking consolidation directive (within the meaning of that Schedule)”.

(2) In section 262(1) of that Act(f) (minor definitions), in the definition of “credit institution”, for “article 1” substitute “article 1(1)(a)”.

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(a) S.I. 1990/1304.

(b) 1972 c. 68. By virtue of the amendment of section 1(2) made by section 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under section 2(2) to implement obligations of the United Kingdom created by or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(c) See definition of “prescribed”.

(d) 2000 c. 8.

(e) 1985 c. 6. Section 209 was substituted by S.I. 1993/1819; subsection (2) was amended by S.I. 1993/2689 and S.I. 2001/3649.

(f) Section 262 was inserted by section 22 of the Companies Act 1989 (c. 40), and the definition of “credit institution” was substituted by S.I. 2000/2952.

(3) In section 699A(3) of that Act(a) (credit and financial institutions to which the Bank Branches Directive (89/117/EEC) applies), in the definition of “credit institution”, for “article 1” substitute “article 1(1)(a)”.

#### **The Companies (Northern Ireland) Order 1986**

3.—(1) In Article 217 of the Companies (Northern Ireland) Order 1986(b) (interests in shares to be disregarded for purposes of disclosure requirements), for sub-paragraph (b) of paragraph (2) substitute—

“(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which falls within article 1(1)(a) of the banking consolidation directive (within the meaning of that Schedule);”.

(2) In Articles 270(1) (minor definitions)(c) and 648A(3) (credit and financial institutions to which the Bank Branches Directive (89/117/EEC) applies)(d) of that Order, for the definition of “credit institution” substitute—

““credit institution” means a credit institution as defined in article 1(1)(a) of Directive 2001/12/EC of the European Parliament and of the Council of 20th 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 credit for its own account;”.

#### **The Financial Services and Markets Act 2000**

4. In paragraph 20(4) of Schedule 11 to the Financial Services and Markets Act 2000(e) (offers of securities: Euro-securities), for “Article 1” substitute “Article 1(1)(a)”.

#### *Amendments to secondary legislation*

#### **The Public Offers of Securities Regulations 1995**

5. In regulation 2(1) of the Public Offers of Securities Regulations 1995(f) (interpretation), in the definition of “credit institution”, for “Article 1” substitute “Article 1(1)(a)”.

#### **The Cross-Border Credit Transfers Regulations 1999**

6. In regulation 2(1) of the Cross-Border Credit Transfers Regulations 1999(g) (interpretation), in the definition of “credit institution”, for “Article 1” substitute “Article 1(1)(a)”.

#### **The Financial Markets and Insolvency (Settlement Finality) Regulations 1999**

7. In regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999(h) (interpretation), in the definition of “credit institution”, for “Article 1” substitute “Article 1(1)(a)”.

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

8. In paragraph 1 of the Schedule to the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000(i) (applicable turnover), in the definition of “credit institution”, for “Article 1” substitute “Article 1(1)(a)”.

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(a) Section 699A was inserted by S.I. 1992/3179, and the definition of “credit institution” was inserted by S.I. 2000/2952.

(b) S.I. 1986/1032 (N.I. 6). Article 217 was substituted by S.R. (N.I.) 1994/2 and was amended by S.I. 2001/3649.

(c) Article 270 was inserted by S.I. 1990/593 (N.I. 5). The definition of “credit institution” was substituted by S.R. (N.I.) 1993/199.

(d) Article 648A was inserted by S.R. (N.I.) 1993/198.

(e) 2000 c. 8. Paragraph 20(4) was amended by S.I. 2000/2952.

(f) S.I. 1995/1537. The definition of “credit institution” was substituted by S.I. 2001/3649. Other amendments are made by S.I. 1999/734 and S.I. 1999/1146.

(g) S.I. 1999/1876. The definition of “credit institution” was amended by S.I. 2000/2952.

(h) S.I. 1999/2979. The definition of “credit institution” was inserted by S.I. 2000/2952.

(i) S.I. 2000/262. The definition of “credit institution” was substituted by S.I. 2000/2952.

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

9. In paragraph 1(1) of the Schedule to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000(a) (applicable turnover), in the definition of “credit institution”, for “Article 1” substitute “Article 1(1)(a)”.

### **The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001**

10.—(1) The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001(b) are amended as follows.

(2) In regulation 1(2) (interpretation), after the definition of “credit institution” insert—  
““electronic money institution” means an electronic money institution as defined in Article 1 of directive 2000/46/EC of the European Parliament and of the Council of 18th September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions(c);”.

(3) In paragraph (3)(d) of regulation 2 (establishment of branch: contents of consent notice), at the beginning insert “except where the firm is an electronic money institution,”.

(4) In paragraph (4)(a)(ii) of that regulation, after “credit institution” the first time it occurs insert “(other than an electronic money institution)”.

*Tony McNulty*  
*Nick Ainger*

21st March 2002

Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) S.I. 2000/369. The definition of “credit institution” was substituted by S.I. 2000/2952.  
(b) S.I. 2001/2511.  
(c) OJ L275, 27.10.2000, p. 39.

## EXPLANATORY NOTE

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

These Regulations make amendments to primary and secondary legislation in consequence of Directive 2000/46/EC of the European Parliament and of the Council of 18th September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions (OJ L275, 27.10.2000, p. 39); and Directive 2000/28/EC of the European Parliament and of the Council of 18th September 2000 amending Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions (OJ L275, 27.10.2000, p. 37).

The directives provide for electronic money institutions to be treated as credit institutions for some, but not all, purposes. These Regulations amend certain references to “credit institutions” in United Kingdom legislation to provide that they do not include electronic money institutions, but continue to include only undertakings whose business is to receive deposits or other repayable funds from the public and to grant credit for their own account.

The amendments made by regulation 3 to the Companies (Northern Ireland) Order 1986 incidentally update references in that Order to First Council Directive 77/780/EEC which was consolidated and revoked by Directive 2000/12/EC.

Further effect is given to Directives 2000/46/EC and 2000/28/EC by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002 (S.I. 2002/682).

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