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STATUTORY INSTRUMENTS

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**2006 No. 3221**

**FINANCIAL SERVICES AND MARKETS**

**The Capital Requirements Regulations 2006**

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

The Treasury are a government department designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to—

- (a) credit and financial institutions and the taking of deposits or other repayable funds from the public(2); and
- (b) measures relating to investment firms and to the provisions of investment services(3).

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

**PART 1**

**INTRODUCTION**

**Citation, commencement and interpretation**

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

(2) In these Regulations—

“the Act” means the Financial Services and Markets Act 2000(4);

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

- (a) for a permission;

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

(2) S.I. 2001/3495.

(3) S.I. 1993/2661.

(4) 2000 c.8.

(b) to vary or revoke a permission; or

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

“banking consolidation directive”(5) means Council Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions;

“capital adequacy directive”(6) means Council Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 relating to the capital adequacy of investment firms and credit institutions;

“decision” means a decision made by the EEA consolidated supervisor in relation to an application or a proposal;

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

(a) an EEA parent credit institution;

(b) an EEA parent investment firm; or

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

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

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

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

“joint decision” means a decision, made jointly by all relevant competent authorities and the EEA consolidated supervisor, in relation to an application or a proposal;

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

(a) a parent credit institution in an EEA State;

(b) a parent investment firm in an EEA State; or

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

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

(5) O.J. No L 771, 30.6.2006, p.1.

(6) O.J. No L 771, 30.6.2006, p.201.

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

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

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

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

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

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

## PART 2

### APPLICATIONS FOR PERMISSIONS

#### **Application for permission**

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

#### **Applications to the Authority as EEA consolidated supervisor**

- 3.—(1) This regulation applies where the Authority is the EEA consolidated supervisor and has received an application.
- (2) The Authority must—
- (a) forward the complete application to the relevant competent authorities without delay;
  - (b) work together, in full consultation with the relevant competent authorities, and do everything in its power to reach a joint decision within six months from the date on which it received the complete application; and

- (c) provide the applicants with a document containing the fully reasoned joint decision, if any.
- (3) If a joint decision is not made by the Authority and the relevant competent authorities within the period specified in paragraph (2)(b), the Authority must—
  - (a) make its own decision on the application, taking account of the views and reservations of the relevant competent authorities expressed during that period; and
  - (b) provide the applicant and the relevant competent authorities with a document containing the fully reasoned decision.

#### **Applications forwarded to the Authority as a relevant competent authority**

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

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

#### **Proposals to vary or revoke a decision or joint decision**

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

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

(3) The notice must—

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

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

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

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

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

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

### **Recognition and application of a decision or joint decision**

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

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

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

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

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

shall not apply.

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

(2) The notice must—

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

## **PART 3**

### **EXERCISE OF SUPERVISION**

#### **The Authority’s duties as an EEA consolidated supervisor**

10. Regulations 11 and 12 apply where the Authority is the EEA consolidated supervisor.

11.—(1) The Authority must take such steps, in going concern and emergency situations, as it considers appropriate—

- (a) to co-ordinate the gathering and dissemination of relevant or essential information; and
- (b) in co-operation with the relevant competent authorities, to plan and co-ordinate supervisory activities.

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

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

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

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

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

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

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

**14.—(1)** Where an emergency situation arises within a banking group which potentially jeopardises the stability of the financial system in any EEA State where an entity of a group has been authorised, the Authority must notify as soon as practicable—

- (a) the central bank and other bodies with a similar function in their capacity as monetary authorities; and
- (b) the department of the central government administration responsible for legislation on the supervision of credit institutions, financial institutions, investment services and insurance companies;

of the EEA State in which the entity has been authorised.

(2) The Authority, in notifying any body under paragraph (1), may share any information which it is not prevented from disclosing.

**15.** The Authority must, so far as necessary to facilitate and establish effective supervision and wherever possible, have written co-ordination and co-operation agreements in place with other competent authorities.

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

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

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

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

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

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

### **Disclosed information**

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

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

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

18. The Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001(7) are amended as follows.

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

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

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

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

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

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(7) [SI 2001/2509](#) as amended by [SI 2003/2066](#) and [SI 2004/1862](#).

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

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

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

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

**20.** After regulation 7, insert—

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

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

(3) This paragraph applies where—

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

(4) This paragraph applies where—

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

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

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



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

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

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

## PART 4

### CREDIT INSTITUTIONS AND EXTERNAL CREDIT ASSESSMENT INSTITUTIONS

#### **Interpretation**

**21.** In this Part—

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

“ECAI” means an external credit assessment institution;

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

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

#### **Recognition for exposure risk-weighting purposes**

**22.—**(1) The Authority must recognise an ECAI as eligible for exposure risk-weighting purposes only if the Authority is satisfied, taking into account the requirements set out in Schedule 1, that—

- (a) the ECAI’s assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency; and
- (b) the ECAI’s credit assessments meet the requirements of credibility and transparency.

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

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

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

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

#### **Recognition for securitisation risk-weighting purposes**

**23.—**(1) The Authority must recognise an ECAI as eligible for securitisation risk-weighting purposes only if the Authority is satisfied—

- (a) taking into account the requirements set out in Schedule 1, that—
    - (i) the ECAI’s assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency; and
    - (ii) the ECAI’s credit assessments meet the requirements of credibility and transparency; and
  - (b) that the ECAI has a demonstrated ability in the area of securitisation.
- (2) A demonstrated ability in the area of securitisation may be evidenced by a strong market acceptance.
- (3) The Authority may recognise an ECAI as eligible for securitisation risk-weighting purposes without carrying out its own evaluation process if the ECAI has been recognised as eligible for those purposes by a competent authority of another Member State.
- (4) Where the Authority recognises an ECAI as eligible for securitisation risk-weighting purposes, it must determine with which of the credit quality steps set out in Part 4 of Annex IX of the banking consolidation directive the relevant credit assessments of the ECAI are to be associated.
- (5) The Authority’s determinations must be objective and consistent.
- (6) The Authority must, when making its determination—
- (a) differentiate between the relative degrees of risk expressed by each assessment; and
  - (b) consider—
    - (i) quantitative factors (such as default rates and loss rates); and
    - (ii) qualitative factors (such as the range of transactions assessed by the ECAI and the meaning of the credit assessment).
- (7) The Authority must seek to ensure that securitisation positions to which the same risk weight is applied on the basis of credit assessments of eligible ECAIs are subject to equivalent degrees of credit risk and, for this purpose the Authority may modify its determination as to the credit quality step with which a credit assessment is to be associated.
- (8) The Authority may recognise, without carrying out its own determination process, a determination of the kind mentioned in paragraph (4) which has been made by a competent authority of another EEA State.

### **Publishing recognition process and list of ECAIs**

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

### **Revoking recognition**

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

## PART 5

### MISCELLANEOUS

#### **Restriction on disclosure**

- 26.**—(1) This regulation applies where—
- (a) a credit institution or investment firm does not meet a requirement of the banking consolidation directive, and
  - (b) by adopting a relevant measure, the Authority requires the credit institution or investment firm to take the necessary action or steps at an early stage to address the situation.
- (2) A measure is relevant if its adoption—
- (a) obliges the credit institution or investment firm to hold own funds in excess of the minimum level laid down in Article 75 of the banking consolidation directive;
  - (b) reinforces the arrangements, processes, mechanisms and strategies implemented to comply with Articles 22 and 123 of the banking consolidation directive;
  - (c) requires the credit institution or investment firm to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;
  - (d) restricts or limits the business, operations or network of the credit institution or investment firm; or
  - (e) requires the reduction of the risk inherent in the credit institution's or investment firm's activities, products and systems.
- (3) In such circumstances, sections 348, 349 and 352 of the Act apply to information about the adoption of the relevant measure—
- (a) in the same way as they apply in relation to confidential information within the meaning of section 348(2) of the Act (subject to paragraph (4) of that section), and
  - (b) as if the Authority were a recipient of such information.

#### **Functions of the Authority**

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

#### **Service of notices**

**28.** The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001<sup>(8)</sup> applies to any document given under regulation 3, 5 or 9 as they apply to any notice, direction or document of any kind under the Act.

#### **Consequential amendments to primary and secondary legislation**

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

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

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<sup>(8)</sup> [S.I. 2001/1420](#); amended by the Enterprise Act 2002 (c. 40) and [S.I. 2005/274](#).

(3) Schedule 5 (which amends the Financial Conglomerates and other Financial Groups Regulations 2004<sup>(9)</sup> in consequence of the adoption of the banking consolidation directive and the capital adequacy directive) has effect.

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

4th December 2006

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

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

## SCHEDULE 1

Regulations 22 and 23

### Recognition of ECAIs

#### PART 1

##### Methodology

###### **Objectivity**

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

###### **Independence**

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

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

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

###### **Ongoing review**

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

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

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

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

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

###### **Transparency and disclosure**

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

## PART 2

### Credit assessments

#### Credibility and market acceptance

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

#### Transparency and Disclosure

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

## SCHEDULE 2

Regulation 22

### Mapping

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

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

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

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

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

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

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

### SCHEDULE 3

Regulation 29(1)

#### Consequential amendments to the Act

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

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

(2) For paragraph 2(10) substitute—

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

(3) In paragraph 5, for paragraphs (b) and (c)(11) substitute—

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

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

3. In paragraph 8(6) of Schedule 11A(12) to the Act (transferable securities), for “Article 1.1(a)” substitute “Article 4(1)(a)”.

### SCHEDULE 4

Regulation 29(2)

#### Consequential amendments to other primary legislation

##### **Amendment of the Consumer Credit Act 1974**

1. In subsection (1C) of section 25 of the Consumer Credit Act 1974(13) (licensee to be a fit person), for “Annex 1 to the banking consolidation directive ([2000/12/EC](#))” substitute “Annex 1 to Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.”.

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

(11) Paragraph 5(b) was substituted by [S.I. 2000/2952](#).

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

(13) [1974 c.39](#); subsection 1C was amended by [S.I. 2001/3649](#).

### **Amendment of the Companies Act 1985**

2.—(1) The Companies Act 1985(14) is amended as follows.

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

(3) In the definition of “credit institution” in each of subsection (1) of section 262 (minor definitions)(15) and subsection (3) of section 699A (credit and financial institutions to which the Bank Branches Directive (89/117/EEC)(16) applies), for “article 1(1)(a) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000” substitute “Article 4(1)(a) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006”.

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

3. In section 119 of the Building Societies Act 1986(17) (interpretation), for subsection (2B) substitute—

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

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

4. In section 17 of the Bank of England Act 1998(18) (power to obtain information), for subsection (7C) substitute—

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

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

5. Section 70 of the Criminal Justice Act 1993(19) (penalties under implementation regimes) is amended as follows—

(a) in subsection (2)(a), for “Article 29 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000” substitute “Article 43 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006”;

(b) in subsection (2)(b), for “Articles 52, 55 and 56” substitute “Articles 127(2) and (3), 137 and 139 to 142”.

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

6.—(1) The Terrorism Act 2000(20) is amended as follows.

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

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

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(14) 1985 c.5; subsection 2 was amended by S.I. 2001/3649.

(15) section 262 was amended by S.I. 2000/2952 and S.I. 2002/765.

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

(17) 1986 c.53; subsection (2B) was inserted by S.I. 1996/1669 and amended by S.I. 2002/2952 and S.I. 2004/1862.

(18) 1998 c.11; subsection (7C) was inserted by S.I. 2001/3649 and amended by S.I. 2004/1862.

(19) 1993 c.36; section 70 was amended by S.I. 2000/2952.

(20) 2000 c.11; Schedule 3A was inserted by the Anti-terrorism Crime and Security Act 2001 c.24.



(3) In paragraph 6(1)(g) of Schedule 6 (financial information)(**21**), for “Directive [2000/12/EC](#) of the European Parliament and of the Council” substitute “Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006”.

### **Amendment of the Proceeds of Crime Act 2002**

7. In Part 1 of Schedule 9 to the Proceeds of Crime Act 2002(**22**) (regulated sector and supervisory authorities), for paragraph 3(3) substitute—

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

## SCHEDULE 5

Regulation 29 (3)

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

1.—(1) The Financial Conglomerates and Other Financial Groups Regulations 2004(**23**) are amended as follows.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) [2002 c.29](#); Schedule 9 was substituted by [S.I. 2003/3074](#).

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

- (4) In regulation 10 (supervision of third-country groups subject to the capital adequacy directive)
- (a) for paragraph (1)(a) substitute—
- “(a) the Authority is, for the purposes of Article 143 of the banking consolidation directive, as applied by Articles 2(1) and 37(1) of the capital adequacy directive (supervision) verifying whether a credit institution or an investment firm in a third-country group is subject to supervision by a third-country competent authority which is equivalent to that governed by the principles laid down in Articles 2(1) and 37(1) of the capital adequacy directive; or”;
- (b) in paragraph (1)(b), for “Article 56a” substitute “Article 143” and for “Article 7(3)” wherever it appears substitute “Articles 2(2) and 37(1)”;
- (c) in paragraph (2)(b), for “the Banking Advisory Committee” substitute “the European Banking Committee” and for “the second paragraph of Article 56a” substitute “Article 143(2)”;
- (d) in paragraph (3), for “the fifth paragraph of Article 56a” substitute “Article 143(3)” and for “Article 7” substitute “Articles 2 and 37(1)”;
- (e) in paragraph (4)(a) and (b), for “Article 53” wherever it appears substitute “Articles 125 or 126” and for “Article 7” wherever it appears substitute “Articles 2 and 37(1)”.
- (5) In regulation 15(1)(b), for “Articles 54, 55a or 56” substitute “Articles 133, 134, 136, 138, 141, 142 or 143” and for “article 7(2) or (3)” substitute “Article 2(1) or (2) and 37(1)”.

## SCHEDULE 6

Regulation 29(4)

## Consequential amendments to other secondary legislation

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

1. In article 2(3) of the Cash Ratio Deposits (Eligible Liabilities) Order 1998<sup>(24)</sup>, for “Directive 2000/12/EC of the European Parliament and of the Council (as last amended by Directive 2002/87/EC of the European Parliament and of the Council)” substitute “Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions”.

**Amendment of the Cross-Border Credit Transfers Regulations 1999**

2. In the definition of “credit institution” in regulation 2(1) of the Cross-Border Credit Transfers Regulations 1999<sup>(25)</sup>, for “Article 1(1)(a) of Directive 2000/12/EC of the European Parliament and of the Council” substitute “Article 4(1)(a) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions”.

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

3. For the definition of “credit institution” in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999<sup>(26)</sup> substitute—

<sup>(24)</sup> S.I. 1998/1130; as amended by S.I. 2000/2952 and S.I. 2004/1862.

<sup>(25)</sup> S.I. 1999/1876.

<sup>(26)</sup> S.I. 1999/2979; as amended by S.I. 2000/2952 and S.I. 2002/765.

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

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

4. In paragraph 1(1) of the Schedule to the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000(27)—

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

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

5. In paragraph 1 of the Schedule to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000(28)—

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

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

6.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(29) is amended as follows.

- (2) In article 9C(2)(30), for “Article 1(1)(a)” substitute “Article 4(1)(a)”.
- (3) In paragraph (g)(iii) of Schedule 3, for “Directive [93/6/EEC](#)” substitute “Directive [2006/49/EC](#)”.

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

7. In the definition of “credit institution” in regulation 1(2) of the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001(31), for “Article 1” substitute “Article 4(1)”.

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

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

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

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

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

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

8.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001<sup>(32)</sup> are amended as follows.

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

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

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

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

9.—(1) The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001<sup>(33)</sup> are amended as follows.

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

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

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

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

10. In article 4(4) of the Financial Services and Markets Act 2000 (Gibraltar) Order 2001<sup>(34)</sup>, for “Article 19” substitute “Article 24”.

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

11. In each of articles 4(2) and 6(4) of the Financial Services and Markets Act 2000 (Confidential Information) (Bank of England) (Consequential Provisions) Order 2001<sup>(35)</sup>, for “Article 29” substitute “Article 43”.

### **Amendment of the Uncertified Securities Regulations 2001**

12. In paragraph 1(1)(b) of Schedule 2 to the Uncertified Securities Regulations 2001<sup>(36)</sup>, for “Directive 2000/12/EC of the European Parliament and of the Council” substitute “Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions”.

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

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

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

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

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

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

13. In article 9 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002<sup>(37)</sup>—

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

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

14. In the definition of “credit institution” in paragraph 1 of the Schedule to the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003<sup>(38)</sup>, for “Article 1 of Directive [2000/12/EC](#) of the European Parliament and of the Council of 20 March 2000” substitute “Article 4(1) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006”.

### **Amendment of the Money Laundering Regulations 2003**

15. For the definition of “Banking Consolidation Directive” in regulation 2 of the Money Laundering Regulations 2003<sup>(39)</sup> substitute—

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

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

16. In the definition of “credit institution” in regulation 25(1) of the Conduct of Employment Agencies and Employment Businesses Regulations 2003<sup>(40)</sup>, for “article 1(1)(a) of Directive [2000/12/EC](#) of the European Parliament and of the Council” substitute “Article 4(1)(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006”.

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

17.—(1) The Credit Institutions (Reorganisation and Winding Up) Regulations 2004<sup>(41)</sup> are amended as follows.

(2) In regulation 2(1)—

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

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

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

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

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

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

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

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

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

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

**18.** In the definition of “credit institution” in article 2(1) of the Building Societies Act 1986 (Modification of the Lending Limit and Funding Limit Calculations) Order 2004(42), for “article 1(1) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000” substitute “Article 4(1) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006”.

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### **EXPLANATORY NOTE**

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

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

A Transposition Table setting out how the elements of the Banking Consolidation Directive and the Capital Adequacy Directive will be transposed into UK law is available from the Financial Stability and Regulatory Policy Team, HM Treasury, 1 Horseguards Road, London, SW1A 2HQ. The Transposition Table is also available on HM Treasury’s website ([www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)).

A Regulatory Impact Assessment has been produced for this instrument and has been deposited in both Houses of Parliament. It is available either from the above address or on HM Treasury’s website.

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

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

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

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

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

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

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

Schedules 1 and 2 to the Regulations contain provisions relating to the recognition of ECAIs. Schedules 3 to 6 contain amendments to primary and secondary legislation made in consequence of the adoption of the Banking Consolidation Directive and the Capital Adequacy Directive.