
STATUTORY INSTRUMENTS

2006 No. 3221

The Capital Requirements Regulations 2006

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(1) 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;

“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.

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

(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.”.