

SCHEDULE 8

Regulation 47.

AMENDMENTS OF BANKING ACT

Preliminary

1. In this Schedule—

“the Act” means the Banking Act⁽¹⁾;

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

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

The Bank and the Board of Banking Supervision

2. Section 1 of the Act (functions and duties of the Bank) shall have effect as if—

- (a) the reference in subsection (3) to the Bank’s activities under the Act included a reference to its activities under these Regulations; and
- (b) the reference in subsection (4) to the Bank’s functions under the Act included a reference to its functions under these Regulations.

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

Meaning of “deposit”

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

Authorisations

5.—(1) Section 17 of the Act (information as to authorised institutions) shall have effect as if—

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

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

(1) 1987 c. 22.

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

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

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

Invitations to make deposits

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

Information

8.—(1) Section 39 of the Act⁽²⁾ (power to obtain information and require production of documents) shall have effect as if—

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

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

(3) A person who is guilty of an offence under subsection (1) of that section by virtue of this paragraph shall not be liable to imprisonment for a term exceeding three months.

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

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

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

Investigations

10.—(1) Section 41 of the Act⁽³⁾ (investigations on behalf of the Bank) shall have effect as if—

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

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

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

Accounts and auditors

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

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

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

The deposit protection scheme

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

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

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

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

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

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

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- (a) the reference to an authorised institution included a reference to a European authorised institution which accepts deposits in the United Kingdom; and
 - (b) the reference to a former authorised institution included a reference to an institution which—
 - (i) was formerly a European authorised institution which accepted deposits in the United Kingdom; and
 - (ii) continues to have a liability in respect of any deposit for which it had a liability when it was such an institution.
- 16.** Section 60 of the Act (protected deposits) shall have effect as if in subsection (6)—
- (a) the reference to a former authorised institution included a reference to an institution which—
 - (i) was formerly a European authorised institution which accepted deposits in the United Kingdom; and
 - (ii) continues to have a liability in respect of any deposit for which it had a liability when it was such an institution; and
 - (b) the references to ceasing to be an authorised institution included references to ceasing to be a European authorised institution which accepted deposits in the United Kingdom.

Banking names and descriptions

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

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

- 19.—**(1) Section 70 of the Act (power to object to institution’s names) shall have effect as if—
- (a) subsection (1) included provision enabling the Bank to give notice in writing to a European institution or quasi-European institution whose recognition notice stated an intention to establish a branch in the United Kingdom that it objects to the name stated in that notice as one of the requisite details of the branch;
 - (b) the reference in subsection (1) to an institution applying for an authorisation under the Act included a reference to a European institution or quasi-European institution whose recognition notice stated no such intention;
 - (c) the reference in subsection (2) to an authorised institution included a reference to a European institution;
 - (d) the reference in subsection (3) to an authorised institution to which section 67 of the Act applies included a reference to a European authorised institution; and
 - (e) the reference in paragraph (b) of that subsection to the said section 67 included a reference to section 68(3) of the Act.

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

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

Overseas institutions

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

Disclosure of information

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

23. Section 83 of the Act⁽⁴⁾ (disclosure for facilitating discharge of functions by Bank) shall have effect as if—

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

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

25. Section 86 of the Act⁽⁶⁾ (information supplied to Bank by overseas authority etc.) shall have effect as if the references in subsections (1) to (3) to the Bank’s functions under the Act included a reference to its functions under these Regulations.

26. Section 87 of the Act⁽⁷⁾ (disclosure of information obtained under other Acts) shall have effect as if the reference in subsection (3A) to the Bank’s functions under the Act included a reference to its functions under these Regulations.

Miscellaneous and supplementary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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