
STATUTORY INSTRUMENTS

1995 No. 1442

**The Credit Institutions (Protection
of Depositors) Regulations 1995**

Part III

Amendments of Part II of 1987 Act

Protected deposits

32.—(1) For subsections (1) to (4) of section 60 of the 1987 Act⁽¹⁾ (protected deposits) there shall be substituted the following subsections—

“(1) Subject to the provisions of this section, in relation to an institution in respect of which a payment falls to be made under section 58(1) above, any reference in this Act to a depositor’s protected deposit is a reference to the liability of the institution to him in respect of—

- (a) the principal amount of each deposit in an EEA currency which was made by him with a United Kingdom office of the institution before the time when the institution became insolvent and has become due and payable; and
- (b) accrued interest on any such deposit up to the time when it became due and payable,

but so that the total liability of the institution to him in respect of such deposits does not exceed £20,000, or the sterling equivalent of 22,222 ecus immediately before the time when the institution became insolvent, whichever is the greater.

(2) In calculating a depositor’s protected deposit for the purposes of subsection (1) above, the amount to be taken into account as regards any deposit made in another EEA currency shall be its sterling equivalent immediately before the time when the institution became insolvent, or the time when the deposit became due and payable, whichever is the later.

(2A) In its application to UK institutions, subsection (1) above shall have effect as if any reference to United Kingdom offices included a reference to offices in other EEA States.

(3) For the purposes of subsection (1) above no account shall be taken of any liability unless—

- (a) proof of the debt, or a claim for repayment of the deposit, which gives rise to the liability has been lodged with a liquidator or administrator of the institution; or
- (b) the depositor has provided the Board with all such written authorities, information and documents as, in the event of a liquidator or administrator being appointed, the Board will need for the purpose of lodging and pursuing, on the depositor’s behalf, a proof of the debt, or a claim for the repayment of the deposit, which gives rise to the liability.

⁽¹⁾ 1987 c. 22; section 60 was amended by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I.1992/3218), regulation 47 and Schedule 8, paragraph 16.

(4) In subsection (3) above, in relation to an institution incorporated in or formed under the law of a country or territory outside the United Kingdom—

- (a) references to a liquidator or administrator include references to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator or administrator; and
- (b) references to the lodging, or the lodging and pursuing, of a proof of the debt, or a claim for the repayment of the deposit, which gives rise to the liability include references to the doing of an act or acts which appear to the Board to correspond as nearly as may be to the lodging, or the lodging and pursuing, of such a proof or claim.”

(2) In subsection (5) of that section, for the words “subsections (1) and (2)” there shall be substituted the words “subsection (1)”.

(3) For subsection (6) of that section there shall be substituted the following subsections—

“(6) In determining the liability or total liability of an institution to a depositor for the purposes of subsection (1) above, no account shall be taken of any liability in respect of a deposit if—

- (a) it is a secured deposit; or
- (b) it is a deposit which is own funds within the meaning given by Article 2 of Directive [89/299/EEC\(2\)](#); or
- (c) it is a deposit which the Board is satisfied was made in the course of a money-laundering transaction; or
- (d) it is a deposit by a person mentioned in item 1 or 2 of Annex I to Directive [94/19/EC\(3\)](#) which was made otherwise than as trustee for a person not so mentioned; or
- (e) the institution is a former UK institution or former authorised institution and the deposit was made after it ceased to be a UK institution or authorised institution unless, at the time the deposit was made, the depositor did not know, and could not reasonably be expected to have known, that it had ceased to be a UK institution or authorised institution; or
- (f) the institution is a former participating EEA institution and the deposit was made after it ceased to be a participating EEA institution; or
- (g) the institution is a former participating non-EEA institution and the deposit was made after it ceased to be a participating non-EEA institution unless the Board is satisfied—
 - (i) that the depositor is entitled under the institution’s home State scheme to a payment in respect of the deposit; and
 - (ii) that he has not received, and has no prospect of receiving, that payment;
 and references in paragraph (e) above to an institution ceasing to be an authorised institution include references an institution ceasing to be a recognised bank or licensed institution under the Banking Act 1979.

(6A) A transaction in connection with which an offence has been committed under—

- (a) any enactment specified in regulation 2(3) of the Money Laundering Regulations 1993(4); or

(2) O.J. L124, 5.5.89, page 16.

(3) O.J. L135, 31.5.94, page 5.

(4) S.I. [1993/1933](#).

- (b) any enactment in force in another EEA State, or in a country or territory outside the European Economic Area, which has effect for the purpose of prohibiting money laundering within the meaning of Article 1 of Directive 91/308/EEC(5), is a money-laundering transaction for the purposes of subsection (6)(c) above at any time if, at that time, a person stands convicted of the offence or has been charged with the offence and has not been tried.”
- (4) In subsection (7) of that section—
- (a) the words “or (2)”, in both places where they occur, shall be omitted; and
 - (b) for the words “or, as the case may be, subject to the administration order against any such sterling deposit” there shall be substituted the words “against any such deposit in an EEA currency”.
- (5) Subsection (8) of that section shall be omitted.