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STATUTORY INSTRUMENTS

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**2004 No. 1862**

The Financial Conglomerates and Other  
Financial Groups Regulations 2004

PART 3

Supplementary supervision of third-country  
financial conglomerates and third-country groups

**Supervision of third-country groups subject to the capital adequacy directive**

**10.**—(1) Paragraph (2) applies if—

- (a) the Authority is, for the purposes of Article 56a of the banking consolidation directive, as applied by Article 7(2) of the capital adequacy directive (groups containing both credit institutions and investment firms), 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 Article 7(2) of the capital adequacy directive; or
- (b) the Authority is, for the purposes of Article 56a of the banking consolidation directive, as applied by Article 7(3) of the capital adequacy directive (groups containing investment firms but no credit institutions), verifying whether 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 Article 7(3) of the capital adequacy directive.

(2) The Authority must, where there is a directive requirement to do so, before completing the verification referred to in paragraph (1)—

- (a) consult any competent authority which supervises an investment firm or a credit institution (if any) in that third-country group;
- (b) consult the Banking Advisory Committee for the purposes of obtaining any applicable guidance prepared by that Committee in accordance with the second paragraph of Article 56a of that directive; and
- (c) take into account any such guidance.

(3) Paragraphs (4) and (5) apply if the Authority exercises, for the purposes of the fifth paragraph of Article 56a of the banking consolidation directive as applied by Article 7 of the capital adequacy directive, its powers to—

- (a) vary the Part IV permission of an investment firm or credit institution in a third-country group;
- (b) disapply from or apply in modified form to, such an investment firm or credit institution the rules specified in subsection (1) of section 148 of the Act in accordance with that section;
- (c) impose conditions under section 185 of the Act on a person who is, or proposes to be, a controller of such an investment firm or credit institution; or

- (d) give a notice under section 186 or 187 of the Act to a person who is, or proposes to be, a controller of such an investment firm or credit institution.
- (4) Where there is a directive requirement to do so, the Authority must, before exercising its powers to take the action specified in paragraph (3)—
- (a) where the Authority would be responsible for supervision of that third-country group for the purposes of Article 53 of the banking consolidation directive, as applied by article 7 of the capital adequacy directive, if alternative techniques were not applied, consult the competent authorities which are involved in the supervision of any of the investment firms or credit institutions (if any) in that third-country group; and
  - (b) where the Authority would not be so responsible, obtain the consent of the competent authority which would be responsible for supervision of that third-country group for the purposes of Article 53 of the banking consolidation directive, as applied by Article 7 of the capital adequacy directive, if alternative techniques were not applied.
- (5) If the Authority decides to take that action, it must, where there is a directive requirement to do so, notify—
- (a) any competent authority which supervises an investment firm or a credit institution (if any) in that third-country group; and
  - (b) the Commission,
- that it has done so.
- (6) If the Authority has, for the purposes of Article 30 of the conglomerates directive, included an asset management company in the scope of supervision of—
- (a) credit institutions and investment firms in a third-country group; or
  - (b) investment firms in a third-country group,
- each reference in this regulation to an “investment firm” is to be treated as including a reference to that asset management company.