



STATUTORY INSTRUMENTS.

S.I. No. 512 of 2009

EUROPEAN COMMUNITIES (DIRECTIVE 2006/48/EC) (CENTRAL
BANK ACTS) (AMENDMENT) REGULATIONS 2009

(Prn. A9/1821)

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BANK ACTS) (AMENDMENT) REGULATIONS 2009

I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Directive 2006/48/EC of 14 June 2006 of the European Parliament and of the Council¹, hereby make the following Regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Directive 2006/48/EC) (Central Bank Acts) (Amendment) Regulations 2009.

(2) These Regulations come into operation on the day after the date on which their publication is notified in the *Iris Oifigiúil*.

Amendments of Central Bank Act 1971

2. The Central Bank Act 1971 (No. 24 of 1971) is amended as follows:

(a) in section 2(1), by inserting after the definition of “the Court”:

“‘credit institution’ means an undertaking (including an electronic money institution (within the meaning of the European Communities (Electronic Money) Regulations 2002(S.I. No. 221 of 2002)), but not a credit union or friendly society) whose business consists of, or includes—

(a) receiving deposits or other repayable funds from the public, and

(b) granting credit on its own account;”;

(b) in section 2(1), by inserting after the definition of “Pensions Acts”:

“‘Recast Credit Institutions Directive’ means Directive 2006/48/EC of 14 June 2006 of the European Parliament and of the Council²;”;

(c) in section 9, by substituting for subsection (1A):

“(1A) The Bank shall not grant a licence under this section to an applicant unless the applicant satisfies the Bank that—

(a) it is a body corporate,

¹ OJ L 177, 30.6.2006, p. 1

² OJ L 177, 30.6.2006, p. 1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th December, 2009.*

- (b) its registered office and its head office are both located in the State,
- (c) it is a credit institution that is authorised for the purposes of the Recast Credit Institutions Directive,
- (d) its business as a credit institution is directed by at least 2 persons who are of good repute and have sufficient experience to direct that business, and
- (e) those persons' direction of that business is real and not merely nominal.”.

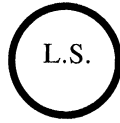
Amendment of Central Bank Act 1989

3. The Central Bank Act 1989 (No. 16 of 1989) is amended by inserting after section 47:

“Further duties of auditor

47A. If, in the course of performing a task referred to in Article 53(1) of the Recast Credit Institutions Directive—

- (a) the auditor of the holder of a licence becomes aware of a fact or decision involving an undertaking that has close links with that holder, and
- (b) the fact or decision results from a control relationship with that holder, the auditor shall report that fact or decision to the Bank in writing without delay.”.



GIVEN under my Official Seal,
15 December 2009.

BRIAN LENIHAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations amend the Central Bank Act 1971 to update certain definitions in line with Directives 2006/48/EC and 2006/49/EC. The 1971 Act is also amended to update the criteria on which the Financial Regulator may decide to grant an application for licence to carry on a banking business.

These Regulations amend the Central Bank Act 1989 to provide that, during the performance of his functions, an auditor must also report to the Financial Regulator where the matters covered by Article 53(1) of Directive 2006/48/EC involve an undertaking that has close links with the institution being audited.

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