



STATUTORY INSTRUMENTS.

S.I. No. 475 of 2009

EUROPEAN COMMUNITIES (CREDIT INSTITUTIONS)
(CONSOLIDATED SUPERVISION) REGULATIONS 2009

(Prn. A9/1744)

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ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY PROVISIONS

1. Citation.
2. Commencement.
3. Interpretation.

PART 2

CONSOLIDATED SUPERVISION OF CREDIT INSTITUTIONS AND FINANCIAL HOLDING
COMPANIES

4. Bank to be responsible for supervising certain credit institutions and financial holding companies on consolidated basis.
5. Consolidation of financial situation of financial holding company not to require Bank to play supervisory role.
6. Parent of subsidiary credit institution to provide Bank with information about subsidiary.
7. Power of Bank to require consolidation of subsidiary credit institutions and financial institutions.
8. Bank to determine whether and how consolidation is to be carried out.
9. Bank to be responsible for exercising general supervision over transactions between credit institution and mixed-activity holding company and subsidiaries in certain cases.
10. Bank to co-operate closely with competent authorities of other Member States.
11. Bank to enter into arrangements with other competent authorities for co-ordinating consolidated supervision and co-operating with those authorities.
12. Bank to co-operate closely with other competent authorities responsible for supervising insurance undertakings and investment undertakings.
13. Bank to co-operate with other competent authorities in relation to credit institutions authorised in other Member States.
14. Bank to communicate relevant information to other competent authorities.

15. Verification of information at request of competent authority of another Member State.
16. Bank to maintain list of financial holding companies.
17. Management of financial holding companies.
18. Credit institutions whose parent undertakings are located in third country.
19. Associated enterprises, etc., to establish and maintain internal reporting, managerial and technological arrangements.

PART 3

ENFORCEMENT OF THESE REGULATIONS

20. Application of certain enactments.
21. Enforcement of Bank directions.

PART 4

MISCELLANEOUS PROVISIONS

22. Other laws not to prohibit credit institutions or associates from disclosing certain information to each other.
23. Privileged communications not required to be disclosed.
24. Bank not required to license, authorise or supervise person not credit institution.
25. Bank not to be liable for losses incurred through insolvency or default of persons subject to supervision under these Regulations.
26. Application of certain enactments, etc., to certain asset management companies.
27. Revocation of superseded Regulations.
28. Consequential amendment of Central Bank Act 1942.

SCHEDULE 1

BANKING SECTOR ENACTMENTS AND REGULATIONS

PART 1

ENACTMENTS

PART 2

REGULATIONS

S.I. No. 475 of 2009

EUROPEAN COMMUNITIES (CREDIT INSTITUTIONS)
(CONSOLIDATED SUPERVISION) 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 purposes of giving further effect to Directive 2006/48/EC¹ of 14 June 2006 of the European Parliament and of the Council, hereby make the following Regulations:

PART 1

PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009.

Commencement

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

Interpretation

3. (1) In these Regulations:

“ancillary services undertaking” means an undertaking the principal activity of which consists in owning or managing property, managing data-processing services, or any other similar activity which is ancillary to the principal activity of one or more credit institutions;

“associated body”, in relation to a building society, has the meaning given by section 2(1) of the Building Societies Act 1989 (No. 17 of 1989);

“associated enterprise”, in relation to a credit institution, means—

(a) a company in respect of which the institution holds—

(i) not less than 20 per cent of the nominal value of the company’s equity share capital, or

(ii) not less than 20 per cent of the voting shares of the company, or

(b) a subsidiary company of the institution, or

(c) a holding company of the institution, or

¹ OJ L 177, 30/06/2006, p. 1

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

- (d) if the institution is a subsidiary company of another company—
- (i) the other company, or
 - (ii) any other subsidiary of the other company, or
- (e) an associated company (within the meaning given by the Central Bank Act 1971 (No. 24 of 1971)) of the institution, or
- (f) a partnership in which the institution has an interest, and whose business is, in the opinion of the Bank, materially relevant to the supervision of the institution;

“Bank” means the Central Bank and Financial Services Authority of Ireland;

“building society” has the meaning given by section 2 of the Building Societies Act 1989;

“Consolidated Accounts Directive” means the Seventh Council Directive 83/349/EEC² of 13 June 1983 based on Article 54(3)(g) of the Treaty on consolidated accounts;

“credit institution” has the same meaning as in the European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006);

“Member State” means a Member State of the European Communities and where relevant includes a contracting party to the Agreement on the European Economic Area³ signed at Oporto on 2 May 1992 (as adjusted by the Protocol⁴ signed at Brussels on 17 March 1993) as amended from time to time;

“Recast Credit Institutions Directive” means Directive 2006/48/EC⁵ of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.

(2) An expression defined in the Recast Credit Institutions Directive and used in these Regulations without definition has in these Regulations the meaning given by that Directive.

(3) A credit institution or financial holding company is taken to be established in a Member State if its head office is established in that State.

² O J L193, 18.7.1983, p. 1.

³ O J L 1, 3.1.1994, P.3.

⁴ O J L 1, 3.1.1994, p. 572.

⁵ O J L 177, 30.06.2006, p. 1.

PART 2

CONSOLIDATED SUPERVISION OF CREDIT INSTITUTIONS AND FINANCIAL HOLDING COMPANIES

Bank to be responsible for supervising certain credit institutions and financial holding companies on consolidated basis

4. (1) If—

- (a) two or more credit institutions have as their parent the same parent financial holding company, and that financial holding company is established in the State or is an EU parent financial holding company,
- (b) one or more of those credit institutions is authorised by the Bank, and
- (c) one or more of those credit institutions is authorised by the competent authority of another Member State,

the Bank is responsible for supervising those credit institutions and that holding company on a consolidated basis.

(2) If—

- (a) the parents of credit institutions authorised in two or more Member States comprise two or more financial holding companies that have their head offices in different Member States, and
- (b) at least one of those credit institutions is established in each of those Member States, one of which is the State,

the Bank is responsible for supervising those institutions and holding companies on a consolidated basis if the credit institution that had, at the end of its immediately preceding financial year, the largest balance sheet total is one authorised by the Bank.

(3) If—

- (a) two or more credit institutions authorised in Member States have the same financial holding company as their parent, and
- (b) those credit institutions have not been authorised in the Member State in which the financial holding company is established,

the Bank is responsible for supervising those credit institutions and that holding company on a consolidated basis if the credit institution that had, at the end of its immediately preceding financial year, the largest balance sheet total is one authorised by the Bank.

(4) In a case to which paragraph (3) applies, the credit institution authorised by the Bank is to be regarded, for the purposes of the Recast Credit Institutions Directive, as the credit institution controlled by an EU parent financial holding company.

(5) Despite paragraphs (1) to (3), in a particular case, the Bank may agree with the competent authority of another Member State that the other competent authority is to exercise supervision on a consolidated basis if, in the opinion of the Bank and that authority, it is appropriate to do so, having regard to the credit institutions concerned and the relative importance of their activities in the State and the other Member State.

(6) In entering into an agreement under paragraph (5), the Bank and the other competent authority concerned may appoint a different competent authority to exercise supervision on a consolidated basis.

(7) The Bank and the other competent authority concerned shall not make a decision under paragraph (5) without having given the following parties an opportunity to state their opinions on that decision:

- (a) the EU parent credit institution;
- (b) the EU parent financial holding company;
- (c) of the credit institutions concerned, the one that had, at the end of its immediately preceding financial year, the largest balance sheet total.

(8) As soon as practicable after entering into an agreement under paragraph (5), the Bank shall notify the European Commission of the agreement and its contents.

Consolidation of financial situation of financial holding company not to require Bank to play supervisory role

5. (1) Where appropriate, the Bank shall adopt such measures as are necessary to include financial holding companies in consolidated supervision.

(2) The consolidation of the financial situation of a financial holding company by the Bank does not require the Bank to supervise that company on a stand-alone basis.

(3) Paragraph (2) does not affect the operation of Regulation 17.

Parent of subsidiary credit institution to provide Bank with information about subsidiary

6. (1) If a credit institution authorised by the Bank is not subject to supervision on a consolidated basis because the institution falls within one of the cases provided for in points (b) and (c) of Article 73(1) of the Recast Credit Institutions Directive, the parent undertaking of the institution (if any) shall, on being requested by the Bank to do so, provide the Bank with such information as it requires to facilitate its supervision of that institution.

(2) If the Bank is responsible for supervising a credit institution or a financial holding company on a consolidated basis, a subsidiary of the institution or holding company shall, on being requested to do so by the Bank, provide the Bank with any information relevant for the purpose of supervising the credit institution or holding company even though the subsidiary is not itself subject to

supervision by the Bank on a consolidated basis. In such a case, the procedures for transmitting and verifying the information set out in Regulations 14 and 15 apply.

Power of Bank to require consolidation of subsidiary credit institutions and financial institutions

7. (1) If the Bank is responsible for supervision on a consolidated basis, it shall, for the purposes of the supervision, require full consolidation of all credit institutions and financial institutions that are subsidiaries of a parent undertaking that it is responsible for supervising.

(2) However, the Bank may require only proportional consolidation if, in its opinion, the liability of a parent undertaking that is holding a share of the capital of the subsidiaries is limited to that share of the capital after taking into account the liability of the other shareholders or members whose solvency is satisfactory. In such a case, the liability of the other shareholders or members must be clearly established, if necessary by means of formal signed commitments.

(3) If the undertakings concerned are linked by a relationship within the meaning of Article 12(1) of the Consolidated Accounts Directive, the Bank shall determine how the consolidation is to be carried out.

(4) When the Bank is responsible for supervision on a consolidated basis, it shall require the proportional consolidation of participations in credit institutions and financial institutions managed by an undertaking that is included in the consolidation, together with one or more undertakings not included in the consolidation, if those undertakings' liability is limited to the share of the capital that they hold.

(5) In the case of participations or capital ties other than those referred to in paragraphs (1) to (4), the Bank shall determine whether and how consolidation is to be carried out. In particular, the Bank may permit or require the use of the equity method, but the use of that method does not constitute inclusion of the undertakings concerned in supervision on a consolidated basis.

Bank to determine whether and how consolidation is to be carried out

8. (1) The Bank may determine whether and how consolidation is to be carried out in the following cases:

- (a) if, in the opinion of the Bank, a credit institution exercises a significant influence over one or more other credit institutions or financial institutions without holding a participation or other capital ties in those institutions;
- (b) if two or more credit institutions or financial institutions are placed under single management otherwise than in accordance with a contract, or their memoranda or articles of association.

(2) In particular, the Bank may permit, or require, use of the method provided for in Article 12 of the Consolidated Accounts Directive. However, the

use of that method does not constitute the inclusion of the relevant undertakings in consolidated supervision.

(3) If the Bank requires consolidated supervision, ancillary services undertakings and asset management companies are to be included in the consolidation in the cases, and in accordance with the methods, prescribed by Regulation 7 and paragraphs (1) and (2) of this Regulation.

(4) Nothing in this Regulation limits Regulation 7.

Bank to be responsible for exercising general supervision over transactions between credit institution and mixed-activity holding company and subsidiaries in certain cases

9. (1) If—

- (a) the parent undertaking of a credit institution is a mixed-activity holding company, and
- (b) the Bank is responsible for the supervision of the credit institution,

the Bank shall exercise general supervision over transactions between the credit institution and the mixed-activity holding company and its subsidiaries.

(2) Every credit institution under the supervision of the Bank shall maintain adequate risk management processes and internal control mechanisms (including sound reporting and accounting procedures) in order to identify, measure, monitor and control transactions with its parent mixed-activity holding company and its subsidiaries.

(3) A credit institution that is under the supervision of the Bank shall, if required by the Bank to do so, report any significant transaction with its parent mixed-activity holding company and that company's subsidiaries (other than a transaction referred to in Regulation 56 of the European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006)).

(4) The Bank is responsible for overseeing procedures and significant transactions referred to in this Regulation.

(5) If the intra-group transactions are a threat to a credit institution's financial position, the Bank shall, if responsible for the supervision of the institution, take appropriate measures to deal with the threat.

Bank to co-operate closely with competent authorities of other Member States

10. (1) The Bank shall co-operate closely with the competent authorities of the other Member States.

(2) Without limiting paragraph (1), the Bank shall provide other competent authorities with such information as is essential or relevant for the performance of those other authorities' supervisory tasks under the Recast Credit Institutions Directive. In performing that function, the Bank shall—

- (a) on being requested to do so, communicate relevant information to those other authorities, and
- (b) on its own initiative, communicate all essential information to those other authorities.

(3) For the purposes of paragraph (2), information is to be regarded as essential if it could materially influence the assessment of the financial soundness of a credit institution or financial institution in another Member State.

(4) If the Bank is responsible for consolidated supervision of an EU parent credit institution and credit institutions controlled by an EU parent financial holding company, it shall provide the competent authorities of other Member States that supervise subsidiaries of that parent company with all relevant information. In determining the extent of relevant information, the Bank shall take into account the importance of those subsidiaries within the financial system of those Member States.

(5) The essential information referred to in paragraph (2) includes (but is not limited to) the following:

- (a) identification of the group structure of all major credit institutions in a group, and the competent authority responsible for the supervision of each credit institution in the group;
- (b) procedures for the collection of information from the credit institutions in a group, and the verification of that information;
- (c) adverse developments in those credit institutions or in other entities of a group, which could seriously affect the credit institutions;
- (d) any major sanctions and exceptional measures taken by competent authorities in accordance with the Recast Credit Institutions Directive, including—
 - (i) the imposition of an additional capital charge under Article 136 of that Directive, and
 - (ii) the imposition of any limitation on the use of the Advanced Measurement Approach for the calculation of the own funds requirements under Article 105 of that Directive.

(6) If the Bank is responsible for the supervision of credit institutions controlled by an EU parent credit institution, it shall whenever possible contact the relevant competent authority whenever it needs information regarding the implementation of approaches and methodologies specified in that Directive that may already be available to that authority.

(7) For the purposes of paragraph (6), the relevant competent authority is the competent authority responsible for the exercise of supervision on a consolidated basis of EU parent credit institutions and credit institutions controlled by EU parent financial holding companies.

(8) Before making a decision relating to an item that is of importance for another competent authority's supervisory tasks, the Bank shall consult the other authority.

(9) For the purpose of paragraph (8), an item is of importance for another competent authority's supervisory tasks if it involves—

- (a) changes in the shareholder, organisational or management structure of credit institutions in a group that require the approval or authorisation of a competent authority, and
- (b) major sanctions or exceptional measures taken by a competent authority, including the imposition of an additional capital charge under Article 136 of the Recast Credit Institutions Directive and the imposition of any limitation on the use of the Advanced Measurement Approaches for the calculation of the own funds requirements under Article 105 of that Directive.

(10) For the purposes of paragraph (9)(b), the Bank shall always consult the competent authority responsible for supervision on a consolidated basis, except that, in relation to a particular decision, the Bank may decide not to consult that authority if—

- (a) the matter is urgent, or
- (b) consultation could jeopardise the effectiveness of the decision.

In that event, the Bank shall inform that authority without delay.

Bank to enter into arrangements with other competent authorities for co-ordinating consolidated supervision and co-operating with those authorities

11. (1) When the Bank is responsible for supervision on a consolidated basis of credit institutions, financial holding companies and their respective subsidiaries, in order to facilitate and establish effective supervision, the Bank shall take all necessary steps to enter into arrangements with the competent authorities of the other Member States with a view to co-ordinating that supervision and co-operating with those authorities for that purpose.

(2) Without limiting paragraph (1), those arrangements may—

- (a) entrust additional tasks to the Bank or other competent authority responsible for carrying out that supervision on a consolidated basis, and
- (b) prescribe the procedures for making decisions relating to that supervision and for co-operating with those other authorities.

(3) If—

- (a) the Bank is responsible for supervising a credit institution that is a subsidiary of a parent undertaking, and

- (b) the competent authority of another Member State authorised and is responsible for supervising that undertaking,

the Bank may enter into an agreement in writing with that authority under which that responsibility is delegated to that authority. On the making of such a delegation, that authority becomes responsible for supervising the subsidiary in accordance with the Recast Credit Institutions Directive.

- (4) If—

- (a) the competent authority of another Member State is responsible for supervising a credit institution that is a subsidiary of a parent undertaking, and

- (b) the Bank authorised and is responsible for supervising that undertaking,

the Bank may enter into an agreement in writing with that authority under which that responsibility is delegated to the Bank. On the making of such a delegation, the Bank becomes responsible for supervising the subsidiary in accordance with the Recast Credit Institutions Directive.

- (5) As soon as practicable after entering into an agreement under paragraph (3) or (4), the Bank shall inform the European Commission in writing of the existence of the agreement and its contents.

Bank to co-operate closely with other competent authorities responsible for supervising insurance undertakings and investment undertakings

- 12. (1) If—

- (a) a credit institution, financial holding company or a mixed-activity holding company controls one or more subsidiaries that are insurance companies, or are undertakings that provide investment services, and

- (b) those companies or undertakings are subject to authorisation,

the Bank shall make every effort to co-operate closely with competent authorities of other Member States that are entrusted with the public task of supervising insurance undertakings or undertakings that provide investment services.

- (2) Without limiting its other responsibilities, the Bank shall provide the competent authorities of those other Member States with any information that is likely to simplify their task and to allow supervision of the activities and the overall financial situation of the undertakings they supervise.

- (3) The Bank shall keep secret information that it receives in the course of supervision on a consolidated basis, and in particular any exchange of information between competent authorities that is provided for in the Recast Credit Institutions Directive.

Bank to co-operate with other competent authorities in relation to credit institutions authorised in other Member States

13. The Bank shall co-operate with the competent authorities of the other Member States concerned in relation to credit institutions authorised in those other States—

- (a) if those institutions are part of a group that is not subject to consolidated supervision under these Regulations, and
- (b) if the parent of those institutions is another credit institution or a mixed financial holding company whose head office is located in a third country.

Bank to communicate relevant information to other competent authorities

14. (1) If a parent undertaking and any of its subsidiaries that are credit institutions are located in different Member States one of which is the State, the Bank shall communicate to the other competent authorities concerned all relevant information in its possession that could facilitate the exercise of supervision of those entities on a consolidated basis.

(2) If a parent undertaking is located in the State, but the Bank is not itself responsible for exercising supervision of those entities on a consolidated basis, the Bank shall, on being requested to do so by the competent authority responsible for supervising those entities on a consolidated basis, take all reasonable steps to obtain from the undertaking information that is relevant to exercising that supervision and to transmit to that authority any information so obtained.

(3) The communication or exchange by the Bank of information referred to in paragraph (1) does not, in relation to the collection or possession of information about a financial holding company, financial institution or ancillary services undertaking, imply that the Bank is required to perform a supervisory role in relation to the company, institution or undertaking standing alone.

(4) Similarly, the communication or exchange by the Bank of information referred to in Article 137 of the Recast Credit Institutions Directive in relation to a mixed-activity holding company or its subsidiaries does not in any way imply that the Bank performs a supervisory role in relation to that company or to such of its subsidiaries as are not credit institutions, or to subsidiaries that are not included within the scope of supervision by the Bank on a consolidated basis.

Verification of information at request of competent authority of another Member State

15. (1) In this Regulation, “relevant entity” means—

- (a) a credit institution, a financial holding company, a financial institution, an ancillary services undertaking, or a mixed-activity holding company,
- (b) a subsidiary of the kind to which Article 127(3) of the Recast Credit Institutions Directive applies, or

(c) a subsidiary of the kind to which Article 137 of that Directive applies.

(2) On being requested by the competent authority of another Member State to verify information relating to a relevant entity that is located in the State, the Bank shall do one of the following:

(a) undertake a verification of the information itself;

(b) allow the authority to undertake the verification;

(c) allow an auditor or expert to undertake the verification.

(3) A competent authority of another Member State that has made a request to the Bank for the verification of information under paragraph (2) is entitled to participate in the verification if it does not undertake the verification itself.

Bank to maintain list of financial holding companies

16. The Bank shall maintain a list of financial holding companies as required by Article 140(3) of the Recast Credit Institutions Directive and shall communicate that list on a regular basis to the European Commission and to the competent authorities within the Member States responsible for the supervision of credit institutions.

Management of financial holding companies

17. (1) This Regulation applies only to a financial holding company that has its head office in the State.

(2) A financial holding company is required to take all reasonably practicable steps to ensure that the persons who are concerned in the direction or management of the company are suitably qualified, are of sufficiently good repute, and have sufficient experience, to be able to perform their duties in that capacity.

(3) The Bank may, by notice in writing, direct a financial holding company to provide it with such information concerning the qualifications, reputation and experience of the persons who are concerned in the direction or management of the company as is specified in the notice.

(4) If the Bank is satisfied on reasonable grounds that a person who is concerned in the direction or management of a financial holding company—

(a) is not suitably qualified,

(b) is not of sufficiently good repute, or

(c) does not have sufficient experience,

to be concerned in the direction or management of the company, it may, by notice in writing, direct the company to take such action (including terminating the person's appointment with the company) as is specified in the notice.

(5) A financial holding company shall not appoint a person to a position by virtue of which the person will be concerned in the direction or management of

the company unless it has previously notified the Bank of the proposal to make the appointment. An appointment made in contravention of this paragraph is void.

(6) A financial holding company shall provide the Bank with such information as it requires concerning the qualifications, reputation and experience of a person referred to in paragraph (5).

(7) A financial holding company to which a direction has been notified under this Regulation shall comply with the direction within the period specified in the notice.

(8) The Bank is not liable in damages for any loss of office arising directly or indirectly out of the giving of a direction under paragraph (4).

(9) The Bank may, by further notice in writing, vary or revoke a direction notified to a financial holding company under this Regulation.

(10) A direction, and a variation or revocation of the direction, notified under this Regulation take effect from the date of the notice or, if a later date is specified in the notice, from that later date.

(11) A direction notified to a financial holding company under this Regulation and a variation of the direction are appealable decisions for the purposes of Part VIIA of the Central Bank Act 1942.

(12) A person is concerned in the direction or management of a financial holding company for the purposes of this Regulation if the person—

- (a) is a director of the company,
- (b) not being a director of the company, has, in the opinion of the Bank, power to direct or control the affairs of the company,
- (c) is the chief executive of the company, or
- (d) holds any other management position to which the Bank's published fitness and probity standards apply.

Credit institutions whose parent undertakings are located in third country

18. (1) If a credit institution is not subject to consolidated supervision under a law that gives effect to the Recast Credit Institutions Directive, the Bank shall verify whether the institution is subject to consolidated supervision, by a third country competent authority, according to principles equivalent to those prescribed by that Directive.

(2) The Bank shall carry out the verification either at the request of the relevant parent undertaking or of any of the regulated entities authorised in a Member State or on its own initiative.

(3) In carrying out the verification, the Bank shall consult the competent authorities of any other Member States involved and the third country competent authority concerned.

(4) The Bank—

(a) shall consult the European Banking Committee before making a decision under this Regulation, and

(b) in carrying out the verification, shall take into account any guidance given to it by that Committee under Article 143 of the Recast Credit Institutions Directive.

(5) In the absence of equivalent supervision of the kind referred to in paragraph (1), the Bank shall apply either the provisions of the Recast Credit Institutions Directive to the credit institution by analogy or other appropriate supervisory techniques that will achieve the objectives of supervision of credit institutions on a consolidated basis. Those supervisory techniques must, after consultation with the competent authorities of any other Member States involved, be agreed to by the third country competent authority that would be responsible for consolidated supervision.

(6) For the purposes of this Regulation, the Bank—

(a) may require, as a prerequisite for or condition of authorisation, the establishment of a financial holding company that has its head office in a Member State,

(b) may require the consolidation of the financial holding company's accounts with those of the credit institution referred to in paragraph (1), and

(c) may apply the supervision provisions of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992) and the provisions of these Regulations to the resulting consolidated position.

(7) The Bank shall ensure that the supervisory techniques are designed to achieve the objectives of consolidated supervision as defined in Chapter 4 of Title V of the Recast Credit Institutions Directive.

(8) As soon as practicable after taking action under this Regulation, the Bank shall notify the action taken to the competent authorities of the other Member State concerned and to the European Commission.

Associated enterprises, etc., to establish and maintain internal reporting, managerial and technological arrangements

19. An associated enterprise of a credit institution and, in the case of a credit institution that is a building society, an associated body of the credit institution,

shall establish and maintain such internal reporting, managerial and technological arrangements as will ensure that the required information is capable of being provided to the Bank.

PART 3

ENFORCEMENT OF THESE REGULATIONS

Application of certain enactments

20. (1) Sections 17A (as amended by item 2 of Part 6 of Schedule 1 to the Central Bank and Financial Services Authority of Ireland Act 2003 (No. 12 of 2003)) and 18 (as amended by section 37 of the Central Bank Act 1989 (No. 16 of 1989)) of the Central Bank Act 1971 (No. 24 of 1971) apply to and in relation to a credit institution that is subject to consolidated supervision by the Bank as if—

- (a) references in either of those sections to a holder of a licence under that Act were references to the credit institution, and
- (b) references in either of those sections to a related body of a holder of such a licence were references to an associated enterprise of the credit institution.

(2) Sections 41 and 41A (as amended by item 3 of Part 10 of Schedule 1 to the Central Bank and Financial Services Authority of Ireland Act 2003) of the Building Societies Act 1989 (No. 17 of 1989) apply to and in relation to a building society that is subject to consolidated supervision by the Bank as if references in that section to a related body of a building society were references to an associated body of the building society.

(3) Sections 24A (as amended by item 1 of Part 8 of Schedule 3 to the Central Bank and Financial Services Authority of Ireland Act 2004 (No. 21 of 2004)) and 25 of the Trustee Savings Bank Act 1989 (No. 21 of 1989) apply to and in relation to a credit institution that is subject to consolidated supervision by the Bank as if—

- (a) references in either of those sections to a trustee savings bank were references to the credit institution, and
- (b) references in either of those sections to a related body of a trustee savings bank were references to an associated enterprise of the credit institution.

(4) The powers of an authorised person under section 17A of the Central Bank Act 1971, section 41 of the Building Societies Act 1989 or section 24A of the Trustee Savings Bank Act 1989 are exercisable, in relation to a proposed inspection of a credit institution, in relation to a partnership in which the institution has an interest, and whose business is or at the relevant time was, in the opinion of the Bank, materially relevant to the inspection of the institution.

Enforcement of Bank directions

21. (1) If the Bank is of the opinion that a financial holding company has not complied with a direction notified under Regulation 18, it may apply to the High Court in a summary manner for an order requiring the financial holding company to comply with the direction.

(2) Pending the hearing of the application under paragraph (1), the High Court may make such interim or interlocutory orders as it considers appropriate.

(3) On the hearing of an application under paragraph (1), the High Court may make—

- (a) if satisfied that the financial holding company has not complied with the direction, an order requiring it to comply; and
- (b) such ancillary orders as it thinks appropriate in the circumstances.

PART 4

MISCELLANEOUS PROVISIONS

Other laws not to prohibit credit institutions or associates from disclosing certain information to each other

22. (1) No enactment or rule of law prohibits any of the following bodies from disclosing relevant information to another such body:

- (a) a credit institution that is subject to consolidated supervision by the Bank;
- (b) an associated enterprise of the credit institution;
- (c) if the credit institution is a building society, an associated body of the credit institution.

(2) In paragraph (1) “relevant information” means information that is required to be provided to the Bank.

Privileged communications not required to be disclosed

23. Nothing in these Regulations requires a barrister or solicitor—

- (a) to produce a document containing a privileged communication made to or by him or her in his or her professional capacity, or
- (b) to provide information contained in such a communication.

Bank not required to license, authorise or supervise person not credit institution

24. (1) Nothing in these Regulations of itself requires the Bank to license, authorise or supervise a person that is not a credit institution.

(2) Paragraph (1) does not affect the operation of Regulation 17.

Bank not to be liable for losses incurred through insolvency or default of persons subject to supervision under these Regulations

25. The supervision of a person in accordance with these Regulations, or the investigation or inspection of, or the requiring by the Bank of any information, document, report, other material, or explanation from, a person under these Regulations does not constitute a warranty as to the person's solvency and the Bank is not liable in respect of losses that are attributable to the person's insolvency or default.

Application of certain enactments, etc., to certain asset management companies

26. (1) If an asset management company is an associated enterprise or an associated body of a credit institution, these Regulations and the enactments and Regulations specified in Schedule 1 also apply, with necessary modifications, to and in respect of the company.

(2) In paragraph (1) "asset management company" has the meaning given by Directive 2002/87/EC⁶ of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate.

Revocation of superseded Regulations

27. The following are revoked:

- (a) the European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992 (S.I. No. 396 of 1992);
- (b) the European Communities (Consolidated Supervision of Credit Institutions) (Amendment) Regulations 2004 (S.I. No. 730 of 2004).

Consequential amendment of Central Bank Act 1942

28. Schedule 2 to the Central Bank Act 1942 (No. 22 of 1942) (as substituted by section 31 of the Central Bank and Financial Services Authority of Ireland Act 2003 (No. 12 of 2003)) is amended as follows:

- (a) by deleting from Part 2 the item relating to the European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992 (S.I. No. 396 of 1992), and
- (b) by inserting at the end of that Part:

"S.I. No. 475 of 2009	European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 ¹	The whole instrument".
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⁶ OJ L 35, 11.2.2003, p. 1.

SCHEDULE 1

BANKING SECTOR ENACTMENTS AND REGULATIONS

PART 1

ENACTMENTS

Central Bank Act 1989 (No. 16 of 1989)

Trustee Savings Bank Act 1989 (No. 21 of 1989)

Building Societies Act 1989 (No. 17 of 1989)

PART 2

REGULATIONS

European Communities (Credit Institutions: Accounts) Regulations 1992 (S.I. No. 294 of 1992)

European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992).



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 modernise and repeal the European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992 (S.I. No. 396 of 1992) to bring them into line with Directives 2006/48/EC and 2006/49/EC. S.I. No. 396 of 1992 transposed Directive 92/30/EEC of 6 April 1992 on the supervision of credit institutions on a consolidated basis.

The Regulations require the Central bank and Financial Services Authority of Ireland to supervise credit institutions and their subsidiary and associated companies on a consolidated basis, i.e. taking account of the entire group activity and relationships, rather than on a single company basis.

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