



STATUTORY INSTRUMENTS.

S.I. No. 638 of 2011

EUROPEAN UNION (FINANCIAL CONGLOMERATES) (EUROPEAN
SUPERVISORY AUTHORITIES) REGULATIONS 2011

(Prn. A11/2287)

EUROPEAN UNION (FINANCIAL CONGLOMERATES) (EUROPEAN
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I, MICHAEL NOONAN, 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 2010/78/EU of the European Parliament and of the Council of 24 November 2010¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Financial Conglomerates) (European Supervisory Authorities) Regulations 2011.
2. The European Communities (Financial Conglomerates) Regulations 2004 (S.I. No. 727 of 2004) are amended as set out in the Schedule.

¹OJ No. L331, 15.12.2010, p. 120

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 13th December, 2011.*

SCHEDULE

Regulation 2

AMENDMENT OF THE EUROPEAN COMMUNITIES (FINANCIAL CONGLOMERATES)
REGULATIONS 2004 (S.I. No. 727 OF 2004)

Item	Provision Amended	Amendment
1	Regulation 3	<p>In paragraph (1)—</p> <p>insert the following definitions after the definition of “entity”:</p> <p style="padding-left: 40px;">“ ‘European Supervisory Authorities’ means the bodies established by Regulation (EU) No 1093/2010², Regulation (EU) No 1094/2010³ and Regulation (EU) No 1095/2010⁴;</p> <p style="padding-left: 40px;">‘European Systemic Risk Board’ means the body established pursuant to Regulation (EU) No. 1092/2010⁵;”,</p> <p>and</p> <p>insert the following definition after the definition of “investment services sector”:</p> <p style="padding-left: 40px;">“ ‘Joint Committee’ means the Joint Committee of the European Supervisory Authorities (ESA) established by Articles 54 of Regulation (EU) No 1093/2010², of Regulation (EU) No 1094/2010³ and of Regulation (EU) No 1095/2010⁴;”.</p>
2	Regulation 5(4)	In subparagraph (c), substitute “the Joint Committee” for “the European Commission”.
3	Regulation 11(2)	<p>(a) in subparagraph (c)(ii), substitute “conglomerates;” for “conglomerates.”, and</p> <p>(b) insert the following subparagraph after subparagraph (c):</p> <p style="padding-left: 40px;">“(d) arrangements are in place to contribute to and develop, if required, adequate recovery and resolution arrangements and plans. Such arrangements shall be updated regularly.”.</p>
4	Regulation 12	<p>Substitute the following paragraph for paragraph (1):</p> <p style="padding-left: 40px;">“(1) To ensure an adequate level of supplementary supervision of the regulated entities within a financial conglomerate, the Bank and the competent authorities of the other Member States in which any of those entities are authorised (including the competent authority of the Member State in which the relevant mixed financial holding company has its head office) shall appoint one of them to be the co-ordinator of the conglomerate in accordance with this Regulation.”.</p>
5	Regulation 17(4)	<p>(a) In subparagraph (c), substitute “the European Central Bank;” for “the European Central Bank.”, and</p> <p>insert the following subparagraph after subparagraph (c):</p> <p style="padding-left: 40px;">“(d) the European Systemic Risk Board.”.</p>

²OJ No. L331, 15.12.2010, p. 12³OJ No. L331, 15.12.2010, p. 48⁴OJ No. L331, 15.12.2010, p. 84⁵OJ No. L331, 15.12.2010, p. 1³OJ No. L331, 15.12.2010, p. 48⁴OJ No. L331, 15.12.2010, p. 84

Item	Provision Amended	Amendment
6		<p>After Regulation 17, insert:</p> <p>“Cooperation and exchange of information with the Joint Committee.</p> <p>17A. (1) The Bank shall co-operate with the Joint Committee for the purposes of the Financial Conglomerates Directive in accordance with Regulation (EU) No 1093/2010², Regulation (EU) No 1094/2010³, and Regulation (EU) No 1095/2010⁴.</p> <p>(2) The Bank shall without delay provide the Joint Committee with all information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1093/2010², of Regulation (EU) No 1094/2010³, and of Regulation (EU) No 1095/2010⁴ respectively.”.</p>
7	Regulation 19	<p>Substitute the following for Regulation 19:</p> <p>“19. Nothing in these Regulations prevents regulated entities within a financial conglomerate, or other persons, that are subject to supplementary supervision by the Bank, or by the competent authority of any other Member State, from—</p> <p>(a) exchanging among themselves any information that is or would be relevant to that supervision; and</p> <p>(b) exchanging information in accordance with the Financial Conglomerates Directive and with the European Supervisory Authorities in accordance with Article 35 of Regulation (EU) No 1093/2010², of Regulation (EU) No 1094/2010³ and of Regulation (EU) No 1095/2010⁴ respectively, where necessary through the Joint Committee.”.</p>
8	Regulation 32	<p>(a) After paragraph (3), insert:</p> <p>“ (3A) Where the Bank disagrees with the decision taken by the competent authority of another Member State, taken to be the co-ordinator of a financial conglomerate, Article 19 of Regulation (EU) No 1093/2010², of Regulation (EU) No 1094/2010³ and of Regulation (EU) No 1095/2010⁴ respectively shall apply.”, and</p> <p>(b) Substitute the following paragraph for paragraph (4):</p> <p>“(4) If the Bank is taken to be the co-ordinator of a financial conglomerate to which this Part applies, it—</p> <p>(a) shall, before taking action under this Regulation, consult the other relevant competent authorities, and</p> <p>(b) shall, in taking such action, take into account any applicable guidelines prepared by the Joint Committee in accordance with Articles 16 and 56 of Regulation (EU) No 1093/2010², of Regulation (EU) No 1094/2010³ and of Regulation (EU) No 1095/2010⁴ respectively.”.</p>

²OJ No. L331, 15.12.2010, p. 12

³OJ No. L331, 15.12.2010, p. 48

⁴OJ No. L331, 15.12.2010, p. 84

²OJ No. L331, 15.12.2010, p. 12

³OJ No. L331, 15.12.2010, p. 48

⁴OJ No. L331, 15.12.2010, p. 84

²OJ No. L331, 15.12.2010, p. 12

⁴OJ No. L331, 15.12.2010, p. 84

⁴OJ No. L331, 15.12.2010, p. 84

⁴OJ No. L331, 15.12.2010, p. 84



GIVEN under my Official Seal,
26 November 2011.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

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

This Statutory Instrument transposes Article 2 of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

The Statutory Instrument amends the European Communities (Financial Conglomerates) Regulations 2004 (S.I. No. 727 of 2004) to provide for recognition in these Regulations of the role of the European Supervisory Authorities in the supervision of financial conglomerates, including coordination with the Central Bank of Ireland, where appropriate.

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