



STATUTORY INSTRUMENTS.

S.I. No. 637 of 2011

EUROPEAN UNION (CREDIT INSTITUTIONS) (EUROPEAN
SUPERVISORY AUTHORITIES) REGULATIONS 2011

(Prn. A11/2278)

EUROPEAN UNION (CREDIT INSTITUTIONS) (EUROPEAN
SUPERVISORY AUTHORITIES) REGULATIONS 2011

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 (Credit Institutions) (European Supervisory Authorities) Regulations 2011.

2. (1) The Central Bank Act 1971 (No. 24 of 1971) is amended as set out in Schedule 1.

(2) The Building Societies Act 1989 (No. 17 of 1989) is amended as set out in Schedule 2.

(3) The European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992) are amended as set out in Schedule 3.

(4) The European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. No. 660 of 2006) are amended as set out in Schedule 4.

(5) The European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006) are amended as set out in Schedule 5.

(6) The European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 (S.I. No. 475 of 2009) are amended as set out in Schedule 6.

¹OJ No. L331, 15.12.2010, p. 120

SCHEDULE 1

Regulation 2(1)

AMENDMENT OF THE CENTRAL BANK ACT 1971 (No. 24 OF 1971)

Item	Provision Amended	Amendment
1	Section 2(1)	<p>After the definition of “credit institution”, insert:</p> <p>“ ‘European Banking Authority’ means the authority established pursuant to Regulation (EU) No. 1093/2010².”.</p>
2	Section 12	<p>Substitute the following subsections for subsections (2) and (3):</p> <p>“(2) The Bank shall as soon as may be after the revocation of a licence, publish notice of the revocation in such manner as it thinks fit. It shall notify any such revocation to the European Commission and to the European Banking Authority.</p> <p>(3) The Bank shall keep each of the following informed of the names of the holders of licences, that is to say:</p> <ul style="list-style-type: none"> (a) the Registrar of the Supreme Court; (b) the officer for the time being managing the Central Office of the High Court; (c) every County Registrar; (d) every District Court Clerk; (e) the European Banking Authority.”.

²OJ No. L331, 15.12.2010, p. 12

SCHEDULE 2

AMENDMENT OF THE BUILDING SOCIETIES ACT 1989 (No. 17 OF 1989)

Item	Provision Amended	Amendment
1	Section 2(1)	After the definition of “director”, insert: “ ‘European Banking Authority’ means the authority established pursuant to Regulation (EU) No. 1093/2010 ² ;
2	Section 10	Insert the following subsection after subsection (7): “(8) The Bank shall notify the European Banking Authority of the name of each building society issued with a certificate of incorporation under this Act.”.
3	Section 40	Insert the following subsection after subsection (7): “(8) The Central Bank shall notify a decision of revoking a society’s authorisation to the European Commission and to the European Banking Authority.”.

²OJ No. L331, 15.12.2010, p. 12

SCHEDULE 3

Regulation 2(3)

AMENDMENT OF THE EUROPEAN COMMUNITIES (LICENSING AND SUPERVISION OF CREDIT INSTITUTIONS) REGULATIONS 1992 (S.I. No. 395 OF 1992)

Item	Provision Amended	Amendment
1	Regulation 2	<p>In paragraph (1)—</p> <p>(a) after the definition of “credit union”, insert:</p> <p>“ ‘European Banking Authority’ means the authority established pursuant to Regulation (EU) No. 1093/2010²;</p> <p>‘European Banking Committee’ means the committee established pursuant to Commission Decision 2004/10/EC³;”,</p> <p>(b) substitute the following definition for the definition of “Recast Credit Institutions Directive”:</p> <p>“ ‘Recast Credit Institutions Directive’ means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006⁴ relating to the taking up and pursuit of the business of credit institutions (recast), as last amended by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010¹;”.</p>
2	Regulation 6(3)	<p>Substitute the following paragraph for paragraph (3):</p> <p>“(3) The Bank shall notify the Commission and the European Banking Authority of the name of every credit institution authorised by it after the commencement of these Regulations whose minimum initial capital is less than €5,000,000.”.</p>
3	Regulation 9	<p>Substitute the following Regulation:</p> <p>“9. (1) The Bank shall notify the Commission, the European Banking Authority and the European Banking Committee as soon as is reasonably practicable of any authorisations issued by it after these Regulations come into operation to a subsidiary of any undertaking incorporated in a state that is not a Member State.</p> <p>(2) The Bank shall notify the Commission, the European Banking Authority and the European Banking Committee as soon as is reasonably practicable after it becomes so aware, of the identity of any credit institution authorised by it which, after these Regulations come into operation, becomes a subsidiary of an undertaking incorporated in a state that is not a Member State.</p> <p>(3) The Bank shall, when notifying the Commission, the European Banking Authority and the European Banking Committee in accordance with paragraph (1) or (2), provide each with such details in its possession as to the corporate structure of the group of undertakings of which the credit institution concerned is a subsidiary.</p> <p>(4) The Bank shall inform the Commission, the European Banking Authority and the European Banking Committee of any general difficulties of which it is aware that have been encountered by a credit institution authorised by it in seeking to carry on business in a state that is not a Member State and the Bank shall supply the Minister for Finance with that information.”.</p>

²OJ No. L331, 15.12.2010, p. 12³OJ No. L3, 7.1.2004, p. 36⁴OJ No. L177, 30.6.2006, p. 1¹OJ No. L 331, 15.12.2010, p. 120

Item	Provision Amended	Amendment
4	Regulation 17	<p>(a) In subparagraphs (c) and (d) of paragraph (1), substitute “the European Banking Authority” for “CEBS”, wherever occurring.</p> <p>(b) Insert the following paragraph after paragraph (2):</p> <p>“(3) Where the Bank has requested another competent authority:</p> <p style="padding-left: 40px;">(a) to provide assistance, or</p> <p style="padding-left: 40px;">(b) to exchange information,</p> <p>and this request has been rejected or has not been acted upon within a reasonable time, the Bank may refer the matter to the European Banking Authority.”.</p>
5	Regulation 26A	<p>Insert the following paragraphs after paragraph (5):</p> <p>“(6) If, within two months, any of the competent authorities concerned refer a request made by the Bank under paragraph (1) to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010², the Bank shall defer taking any decision pursuant to paragraph (4) pending the decision of the European Banking Authority.</p> <p>(7) A decision by the Bank pursuant to paragraph (4) shall be in conformity with a decision of the European Banking Authority in accordance with Article 19(3) of Regulation (EU) No 1093/2010 following a referral in accordance with that Regulation.</p> <p>(8) The Bank may not refer a request made in accordance with paragraph (1) to the European Banking Authority after the end of the two month period or after a joint decision has been reached in accordance with paragraph (3).”.</p>
6	Regulation 29(4)	<p>Substitute the following paragraph for paragraph (4):</p> <p>“(4) The Bank shall, as soon as may be, inform the Commission, the European Banking Authority and the competent authorities of the Member State in which the institution is authorised of the measures taken under paragraph (1).”.</p>
7	Regulation 30	<p>Substitute the following Regulation:</p> <p>“30. The Bank shall notify the Commission and the European Banking Authority as soon as may be thereafter, of each case in which the Bank has refused to transmit a notice in accordance with Regulation 21 (5) or in which the Bank issues a direction under Regulation 27 and shall provide the Commission with such details as the Bank considers necessary for the purposes of complying with this Regulation.”.</p>

²OJ No. L331, 15.12.2010, p. 12

SCHEDULE 4

Regulation 2(4)

AMENDMENT OF THE EUROPEAN COMMUNITIES (CAPITAL ADEQUACY OF INVESTMENT FIRMS) REGULATIONS 2006 (S.I. No. 660 OF 2006)

Item	Provision Amended	Amendment
1	Regulation 2(1)	After the definition of “EU parent investment firm,” insert: “ ‘European Banking Authority’ means the body established pursuant to Regulation (EU) No. 1093/2010 ² ;
2	Regulation 20	Insert the following paragraph after paragraph (1): “(1A) Where, under paragraph (1), the Bank waives the application of capital requirements on a consolidated basis, it shall notify the Commission and the European Banking Authority.”.
3	Regulation 30	Substitute the following paragraph for paragraph (2): “(2) The Bank shall notify the European Banking Authority, the Council and the Commission of those procedures.”.
4	Regulation 36	Insert the following paragraphs after paragraph (2): “(2A) The Bank shall cooperate with the European Banking Authority for the purposes of the recast Directive (IF), in accordance with Regulation (EU) No. 1093/2010 ² . (2B) The Bank shall without delay provide the European Banking Authority with all information necessary to carry out its duties under the recast Directive (IF) and under Regulation (EU) No. 1093/2010 ² in accordance with Article 35 of that Regulation.”.

²OJ No. L331, 15.12.2010, p. 12²OJ No. L331, 15.12.2010, p. 12

SCHEDULE 5

AMENDMENT OF THE EUROPEAN COMMUNITIES (CAPITAL ADEQUACY OF CREDIT INSTITUTIONS) REGULATIONS 2006 (S.I. No. 661 OF 2006)

Item	Provision Amended	Amendment
1	Regulation 2	<p>In paragraph (1)—</p> <p>(a) delete the definition of “CEBS”,</p> <p>(b) insert the following definitions after the definition of “credit institution”:</p> <p>“ ‘European Banking Authority’ means the body established pursuant to Regulation (EU) No. 1093/2010²;</p> <p>‘European Systemic Risk Board’ means the body established pursuant to Regulation (EU) No. 1092/2010⁵;”.</p>
2	Regulation 8A	In paragraph (4), substitute “developed by the European Banking Authority” for “elaborated by CEBS”.
3	Regulation 18	In paragraph (4), substitute “developed by the European Banking Authority” for “elaborated by CEBS”.
4	Regulation 56	In paragraph (4), substitute “the European Banking Authority” for “CEBS”.
5	Regulation 57	<p>Insert the following paragraph after paragraph (15):</p> <p>“(16) The Bank shall inform the Commission and the European Banking Authority of any limit applied in accordance with paragraph (14).”.</p>
6	Regulation 67	<p>Insert the following paragraph after paragraph (1A):</p> <p>“(1B) Where the Bank is—</p> <p>(a) 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, or</p> <p>(b) responsible for the supervision of subsidiaries of an EU parent credit institution or an EU parent financial holding company,</p> <p>it may, if the other competent authorities concerned do not co-operate in carrying out the tasks set out in paragraph (1), refer the matter to the European Banking Authority.”.</p>
7	Regulation 67	<p>Insert the following paragraphs after paragraph (8):</p> <p>“(8A) If, at the end of the six month period, any of the competent authorities concerned refer an application made in accordance with paragraph (2) to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010², the Bank shall defer taking any decision pursuant to paragraph (8) pending the decision of the European Banking Authority.</p> <p>(8B) A decision by the Bank pursuant to paragraph (8) shall be in conformity with a decision of the European Banking Authority in accordance with Article 19(3) of Regulation (EU) No 1093/2010² following a referral in accordance with that Regulation.</p> <p>(8C) The Bank may not refer an application made in accordance with paragraph (2) to the European Banking Authority after the end of the six month period or after a joint decision has been reached in accordance with paragraph (4).”.</p>

²OJ No. L331, 15.12.2010, p. 12

Item	Provision Amended	Amendment
8	Regulation 67A	<p>(a) In paragraphs (4) and (9), substitute “the European Banking Authority” for “CEBS”, wherever occurring,</p> <p>(b) Insert the following paragraphs after paragraph (7):</p> <p>“(7A) If, at the end of the six month period, any of the competent authorities concerned refer a proposal for a joint decision under paragraph (1) to the European Banking Authority in accordance with Article 19 of Regulation (EU) No 1093/2010², the Bank shall defer taking any decision pursuant to paragraph (6) or (7) pending the decision of the European Banking Authority.</p> <p>(7B) A decision by the Bank pursuant to paragraph (6) or (7) shall be in conformity with a decision of the European Banking Authority in accordance with Article 19(3) of Regulation (EU) No 1093/2010² following a referral in accordance with that Regulation.</p> <p>(7C) The Bank may not refer a proposal for a joint decision under paragraph (1) to the European Banking Authority after the end of the six month period or after a joint decision has been reached in accordance with paragraph (1).”</p> <p>(c) In paragraph (11), substitute the following subparagraph for subparagraph (b):</p> <p>“(b) ‘4-month period’ were substituted for ‘6-month period’ in paragraphs (7A) and (8).”</p>
9	Regulation 68	<p>Substitute the following paragraph for paragraph (1):</p> <p>“(1) Where—</p> <p>(a) an emergency situation, including a situation as defined in Article 18 of Regulation (EU) No 1093/2010² or a situation of adverse developments in markets, arises, which potentially jeopardises the market liquidity and the stability of the financial system in any of the Member State where entities of a group have been authorised or where significant branches referred to in Article 42a of the Recast Credit Institutions Directive are established, and</p> <p>(b) the Bank is responsible for the exercise of supervision on a consolidated basis,</p> <p>it shall—</p> <p>(i) as soon as is practicable, alert the European Banking Authority, the European Systemic Risk Board, the other central banks concerned and the administrative authorities of central governments concerned with financial supervision policy, and</p> <p>(ii) communicate to them all information that is essential for the performance of their tasks.”</p>

⁵OJ No. L331, 15.12.2010, p. 1

²OJ No. L331, 15.12.2010, p. 12

²OJ No. L331, 15.12.2010, p. 12

²OJ No. L331, 15.12.2010, p. 12

SCHEDULE 6

AMENDMENT OF THE EUROPEAN COMMUNITIES (CREDIT INSTITUTIONS)
(CONSOLIDATED SUPERVISION) REGULATIONS 2009 (S.I. No. 475 OF 2009)

Item	Provision Amended	Amendment
1	Regulation 3(1)	<p>After the definition of “credit institution”, insert:</p> <p>“ ‘European Banking Authority’ means the body established pursuant to Regulation (EU) No. 1093/2010²;”.</p>
2	Regulation 4	<p>Substitute the following paragraph for paragraph (8):</p> <p>“(8) As soon as practicable after entering into an agreement under paragraph (5), the Bank shall notify the European Commission and the European Banking Authority of the agreement and its contents.”.</p>
3	Regulation 10	<p>(a) Insert the following paragraphs after paragraph (2):</p> <p>“(2A) The Bank shall cooperate with the European Banking Authority for the purposes of the Recast Credit Institutions Directive, in accordance with Regulation (EU) No 1093/2010².</p> <p>(2B) The Bank shall provide the European Banking Authority with all information necessary to carry out its duties under the Recast Credit Institutions Directive and under Regulation (EU) No 1093/2010², in accordance with Article 35 of that Regulation.”.</p> <p>(b) Insert the following paragraph after paragraph 5A:</p> <p>“(5A) The Bank may refer to the EBA situations where—</p> <p style="padding-left: 40px;">(a) a competent authority has not communicated essential information, or</p> <p style="padding-left: 40px;">(b) a request for co-operation, in particular to exchange relevant information, has been rejected or has not been acted upon within a reasonable time.”.</p>
4	Regulation 11	<p>Substitute the following paragraphs for paragraphs (3) to (5):</p> <p>“(3) If—</p> <p style="padding-left: 40px;">(a) the Bank is responsible for supervising a credit institution that is a subsidiary of a parent undertaking, and</p> <p style="padding-left: 40px;">(b) the competent authority of another Member State authorised and is responsible for supervising that undertaking,</p> <p>the Bank may, in accordance with Article 28 of Regulation (EU) No 1093/2010², 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.</p> <p>(4) If—</p> <p style="padding-left: 40px;">(a) the competent authority of another Member State is responsible for supervising a credit institution that is a subsidiary of a parent undertaking, and</p> <p style="padding-left: 40px;">(b) the Bank authorised and is responsible for supervising that undertaking,</p>

²OJ No. L331, 15.12.2010, p. 12

Item	Provision Amended	Amendment
		<p>the Bank may, in accordance with Article 28 of Regulation (EU) No 1093/2010², 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.</p> <p>(5) As soon as practicable after entering into an agreement under paragraph (3) or (4), the Bank shall inform the European Banking Authority in writing of the existence of the agreement and its contents.”.</p>
5	Regulation 11A	<p>(a) In paragraph (3), substitute the following subparagraph for subparagraph (a):</p> <p>“(a) exchanging information in accordance with Article 21 of Regulation (EU) No 1093/2010².”</p> <p>(b) Substitute the following for paragraph (4):</p> <p>“(4) Where the Bank is a participant in a college of supervisors, it shall co-operate closely with the other competent authorities participating in the college and with the European Banking Authority.”</p> <p>(c) In paragraph (7), substitute the following subparagraphs for subparagraph (d):</p> <p>“(d) third countries’ competent authorities where appropriate and subject to confidentiality requirements that are equivalent, in the opinion of all participating competent authorities in Member States, to the requirements under Section 2 of Chapter 1 of Title V of the Recast Credit Institutions Directive;</p> <p>(e) the European Banking Authority.”.</p> <p>In paragraph (10), substitute “the European Banking Authority” for “CEBS”, wherever occurring.</p>
6	Regulation 16	<p>Substitute the following Regulation:</p> <p>“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 Banking Authority, the European Commission and to the competent authorities within the Member States responsible for the supervision of credit institutions.”.</p>
7	Regulation 18	<p>(a) Substitute the following paragraph for paragraph (4):</p> <p>“(4) The Bank—</p> <p>(a) shall consult the European Banking Authority before making a decision under this Regulation, and</p> <p>(b) in carrying out the verification, shall take into account any guidance given by the European Banking Committee under Article 143 of the Recast Credit Institutions Directive.”</p> <p>(b) Substitute the following paragraph for paragraph (8):</p> <p>“(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, to the European Banking Authority and to the European Commission.”.</p>

²OJ No. L331, 15.12.2010, p. 12²OJ No. L331, 15.12.2010, p. 12



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 Articles 9 and 10 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 following instruments: the Central Bank Act 1971 (No. 24 of 1971); the Building Societies Act 1989 (No. 17 of 1989); the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992); the European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. No. 660 of 2006); the European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006); and the European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 (S.I. No. 475 of 2009). The amendments provide for recognition in these instruments of the role of the European Supervisory Authorities in the supervision of credit institutions, including coordination with the Central Bank of Ireland, where appropriate.

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