



STATUTORY INSTRUMENTS.

S.I. No. 515 of 2009

EUROPEAN COMMUNITIES (CAPITAL ADEQUACY OF
INVESTMENT FIRMS) (AMENDMENT) REGULATIONS 2009

(Prn. A9/1824)

EUROPEAN COMMUNITIES (CAPITAL ADEQUACY OF
INVESTMENT FIRMS) (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 further giving effect to Directive 2006/49/EC¹ dated 14 June 2006 of the European Parliament and of the Council, hereby make the following Regulations:

Citation.

1. These Regulations may be cited as the European Communities (Capital Adequacy of Investment Firms) (Amendment) Regulations 2009.

Commencement.

2. These Regulations come into operation on the day after the day on which notice of their making is published in the *Iris Oifigiúil*.

Amendment of European Communities (Capital Adequacy of Investment Firms) Regulations 2006.

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

¹O J No. L177, 30.6.2006, p. 201.

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

SCHEDULE

Regulation 3.

AMENDMENT OF EUROPEAN COMMUNITIES (CAPITAL
ADEQUACY OF CREDIT INSTITUTIONS) 2006

| Item | Provision amended | Amendment |
|------|---|---|
| 1 | Regulation 3(6)(a) | Substitute “firms,” for “firms, and”. |
| 2 | Regulation 3(6)(b) | Substitute “Directive 2004/39/EC ² , and” for “Directive 2004/39.”. |
| 3 | Regulation 3(6) | Insert after subparagraph (b): “(c) Article 140(1) of Directive 2006/48/EC ³ shall have effect as if its first sentence were as follows: ‘Where an investment firm, a financial holding company or a mixed-activity holding company controls one or more subsidiaries which are insurance companies, the competent authorities and the authorities entrusted with the public task of supervising insurance undertakings shall cooperate closely.’”. |
| 4 | Regulation 14(d) | Substitute “paragraphs (2), (3) and (4) of Regulation 11” for “Regulations 15(2), (3) and (4)” |
| 5 | Regulation 16(2) | Delete “, rather than in accordance with Annexes I and II to the recast Directive (IF),”. |
| 6 | Regulation 28(1) | Substitute: “(1) The overall exposures to individual clients or groups of connected clients shall be calculated by adding together— (a) the exposures that arise on the trading book, and (b) the exposures that arise on the non-trading book, taking into account the following provisions of the CRD Regulations (CI): (i) the definition of ‘guarantee’ in Regulation 52 (so far as relevant to the application of the provisions referred to in subparagraphs (ii) and (iii)); (ii) paragraphs (6) to (10) of Regulation 57; (iii) Regulations 58 to 60A.”. |
| 7 | Paragraphs (5) and (6) of Regulation 28 | Substitute: “(5) Subject to paragraph (6), the sum of the exposures to an individual client or group of connected clients shall be limited in accordance with the following provisions of the CRD Regulations (CI): (i) the definition of ‘guarantee’ in Regulation 52 (so far as relevant to the application of the provisions referred to in subparagraph (ii)); (ii) Regulations 57 to 60A. (6) The Bank may allow assets constituting claims and other exposures on— (a) recognised third-country investment firms, |

²O J No. L145, 30.4.2004, p. 1.³O J No. L177, 30.6.2006, p. 1.

| Item | Provision amended | Amendment |
|------|-------------------|--|
| | | <p>(b) recognised clearing houses, and</p> <p>(c) exchanges in financial instruments,</p> <p>to be subject to the same treatment as that accorded to claims on institutions specified in the following provisions of the CRD Regulations (CI):</p> <p>(i) paragraphs (9) and (10) of Regulation 57;</p> <p>(ii) Regulation 59(1)(i).”.</p> |
| 8 | Regulation 29 | <p>Substitute:</p> <p><i>“Circumstances in which limits set out in Regulations 57 to 60A of CRD Regulations (CI) may be exceeded.</i></p> <p>29.—(1) The Bank may authorise an institution to exceed the limits specified in Regulations 57 to 60A of the CRD Regulations (CI), but only if the following conditions are met:</p> <p>(a) the exposure on the non-trading book to the client or group of clients in question does not exceed the limits specified in Regulations 57 to 60A of the CRD Regulations (CI) (calculated with reference to own funds as specified in Directive 2006/48/EC³), so that the excess arises entirely on the trading book;</p> <p>(b) the institution meets an additional capital requirement on the excess in respect of the limits specified in paragraphs (1) and (2) of Regulation 57 of the CRD Regulations (CI) (calculated in accordance with Annex VI to Directive 2006/49/EC¹);</p> <p>(c) where no more than 10 days has elapsed since the excess occurred, the trading-book exposure to the client or group of connected clients in question shall not exceed 500 per cent of the institution’s own funds;</p> <p>(d) any excesses that have persisted for more than 10 days do not, in aggregate, exceed 600 per cent of the institution’s own funds;</p> <p>(e) the institution reports to the Bank, as soon as practicable after the end of each period of 3 months, all cases where the limits specified in paragraphs (1) and (2) of Regulation 57 of the CRD Regulations (CI) have been exceeded during that period.</p> <p>(2) For the purposes of paragraph (1)(e), on each occasion on which the institution exceeds the limits, it shall report the amount of the excess and the name of the client concerned.”.</p> |
| 9 | Regulation 30(1) | Substitute “paragraphs (1) and (2) of Regulation 57” for “Regulation 57(1) to (4)”. |
| 10 | Regulation 30(4) | Substitute “Regulations 56 to 60A” for “Regulations 57 to 60”. |

GIVEN under my hand,
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 European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. No. 660 of 2006) to correct certain referencing errors. S.I. No. 660 of 2006 transposed Directive 2006/49/EC of 14 June 2006 on the capital adequacy of investment firms and credit institutions.

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