



STATUTORY INSTRUMENTS.

S.I. No. 642 of 2017



EUROPEAN COMMUNITIES (ARTICLE 11) (DIRECTIVE 97/9/EC)
(THIRD COUNTRY BRANCHES) REGULATIONS 2017

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I, PASCHAL DONOHOE, 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 full effect to Article 11 of Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997¹ on investor-compensation schemes, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Article 11) (Directive 97/9/EC) (Third Country Branches) Regulations 2017.

(2) These Regulations shall come into operation on 3 January 2018.

2. The Investor Compensation Act 1998 (No. 37 of 1998) is amended—

(a) in section 2(1), by substituting for paragraph (c) of the definition of “authorised investment firm” the following:

“(c) a credit institution within the meaning of point (1) of Article 4(1) of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013² or authorised under section 9A of the Central Bank Act 1971 (No. 24 of 1971) whose authorisation extends to one or more of the investment services listed in section A of the Annex to the Investment Services Directive,”

and

(b) by inserting after section 29 the following:

“Third Country Branches

29A. (1) Where an investment firm or credit institution, as the case may be, that has its head office established in a state, other than a Member State or an EEA state, establishes a third country branch in the State, the competent authority shall check that—

(a) the protections in that other state, in respect of the investment business of the firm or institution concerned are at least equivalent to those provided for in the Investor Compensation Directive, and

¹OJ No. L 84, 26.03.1997, p. 22

²OJ No. L 176, 27.06.2013, p. 1

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 23rd January, 2018.

(b) eligible investors, who have entrusted money or instruments to the third country branch in connection with investment business, benefit from cover equivalent to that provided for in the Investor Compensation Directive.

(2) Where the protections or benefits referred to in subsection (1) are not at least equivalent to those provided for in the Investor Compensation Directive, the competent authority shall require that the firm or institution concerned prior to offering the services referred to in subsection (1) in the State—

(a) join the Company, and

(b) contribute to a fund established under section 19, in respect of the eligible investors who have entrusted money or instruments with the third country branch in connection with investment business who are not covered by a scheme in a state other than a Member State or an EEA state, such amounts in accordance with section 21 (and, in the case of a credit institution, as if the references to investment firm in that section were to credit institution) as may be determined by the Company from time to time.

(3) An investment firm which has its head office established in a state, other than a Member State or an EEA state, that establishes a third country branch in the State shall provide to actual and intending eligible investors all relevant information, in writing, concerning the compensation arrangements which cover their investments.

(4) The information referred to in subsection (3) shall be made available—

(a) in one of the official languages of the State, and

(b) in a manner which is clear and comprehensible.

(5) In this section—

‘EEA state’ means a state, not being a Member State or the State, which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993;

‘investment business’ has the meaning given to it in as defined in Article 1(2) of the Investor Compensation Directive;

‘Investor Compensation Directive’ means Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997³ on investor-compensation schemes;

³OJ No. L 84, 26.03.1997, p. 22

‘third country branch’ means a branch of—

- (a) an investment firm authorised in a third country which is granted an authorisation by the Bank in accordance with Regulation 50 of the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017), or
- (b) a credit institution authorised in accordance with section 9A of the Central Bank Act 1971 (No. 24 of 1971).”.



GIVEN under my Official Seal,
22 December 2017.

PASCHAL DONOHOE,
Minister for Finance.

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