

Credit Institutions: requirement for register, etc., in the case of holding company as respects certain information

312. (1) Subject to section 313, a company which is the holding company of a credit institution shall maintain a register containing a copy of every transaction, arrangement or agreement made by that institution of which particulars—

(a) are required by section 307 (1) or (2) or section 309 (1) or (2) to be disclosed, or

(b) would, but for section 310, be required by any such provision to be disclosed,

in the company's entity or group financial statements for the current financial year and for each of the preceding 10 financial years or, if such a transaction, arrangement or agreement is not in writing, a written memorandum setting out its terms.

(2) Subsection (1) shall not require a company to keep in its register a copy of any transaction, arrangement or agreement made by the credit institution for or with a connected person if—

(a) it is entered into in the ordinary course of the institution's business, and

(b) its value is not greater, and its terms no more favourable, in respect of the person for or with whom it is made, than that or those which—

(i) the institution ordinarily offers, or

(ii) it is reasonable to expect the institution to have offered,

to or in respect of a person of the same financial standing but unconnected with the institution.

(3) Subject to section 313, a company which is the holding company of a credit institution shall, before the annual general meeting of the holding company, make available, at its registered office for inspection by its members, the statement specified in subsection (5).

(4) That statement shall be made so available for a period of not less than 15 days ending with the date of the meeting.

(5) The statement mentioned in subsection (3) (referred to in subsections (6) to (8) as the "statement") is one containing the particulars of transactions, arrangements and agreements made by the credit institution which the holding company would, but for section 310, be required by section 307 (1) or (2) or section 309 (1) or (2) to disclose in its entity or group financial statements for the last complete financial year preceding the meeting referred to in that subsection.

(6) The statement shall also be made available for inspection by the members at that annual general

meeting.

(7) This section shall not require the inclusion in the statement of particulars of any transaction, arrangement or agreement made by the credit institution if—

(a) it is entered into in the ordinary course of the institution's business, and

(b) its value is not greater, and its terms no more favourable, in respect of the person for or with whom it is made, than that or those which—

(i) the institution ordinarily offers, or

(ii) it is reasonable to expect the institution to have offered,

to or in respect of a person of the same financial standing but unconnected with the institution.

(8) This section shall not require the inclusion in the statement of particulars of any transaction, arrangement or agreement if, by reason of—

(a) the company's not taking advantage of section 310, or

(b) the company's being required by a rule, instrument, direction or requirement referred to in section 313 to disclose such information in the following manner, the company has included in its entity or group financial statements for the last complete financial year mentioned in subsection (5) the particulars referred to in section 307 (1) or (2) or section 309 (1) or (2), as the case may be, of the transaction, arrangement or agreement which, but for either of those reasons, it would not have disclosed in those financial statements by virtue of section 310.

(9) A company shall, if required by the Director, produce to the Director for inspection the register kept by it in accordance with subsection (1) and shall give the Director such facilities for inspecting and taking copies of the contents of the register as the Director may require.

(10) It shall be the duty of the statutory auditors of the company to examine any such statement specified in subsection (5) before it is made available to the members of the company in accordance with subsections (3) and (4) and to make a report to the members on that statement; and the report shall be annexed to the statement before it is made so available.

(11) A report under subsection (10) shall state whether in the opinion of the statutory auditors the statement contains the particulars required by subsection (5) and, where their opinion is that it does not, they shall include in the report, so far as they are reasonably able to do so, a statement giving the required particulars.

(12) Where a company fails to comply with subsection (1), (3) or (9), the company and every person who at the time of that failure is a director of the company shall be guilty of a category 3 offence.

(13) In any proceedings against a person in respect of an offence under subsection (12) (being an offence consisting of a failure to comply with subsection (1) or (3)), it shall be a defence to prove that the defendant took all reasonable steps for securing compliance with subsection (1) or (3), as the case may be.

(14) A word or expression used in this section and also used in sections 307 to 309 has the same meaning in this section as it has in those sections.