

1985 No. 220

BANKS AND BANKING

The Banking Act 1979 (Advertisements) Regulations 1985

<i>Made</i>	- - - -	20th February 1985
<i>Laid before Parliament</i>		21st February 1985
<i>Coming into Operation</i>		1st July 1985

The Treasury, in exercise of the powers conferred on them by sections 34(1) and (2) of the Banking Act 1979(a) and of all other powers enabling them in that behalf, and after consultation with the Bank of England, hereby make the following Regulations:—

Citation, commencement and interpretation

1.— (1) These Regulations may be cited as the Banking Act 1979 (Advertisements) Regulations 1985.

(2) These Regulations shall come into operation on 1st July 1985.

(3) In these Regulations, unless the context otherwise requires—

“advertisement” means an advertisement within the meaning of section 34 of the Banking Act 1979 to which, in accordance with Regulation 2, these Regulations apply;

“deposit-taker” means the person with whom the deposits which are invited by an advertisement are to be made;

“full name” in respect of any person means the name under which that person carries on business and, if different and if that person is a body corporate, its corporate name;

“liabilities” includes provisions where such provisions have not been deducted from the value of assets;

(4) A reference in these Regulations to the payment of interest in respect of a deposit includes a reference to the payment of any premium in respect of a deposit, and to the crediting of interest to the deposit so as to constitute an accretion to the principal.

Application of Regulations

2.— (1) Subject to paragraphs (2) to (5) of this Regulation these Regulations

(a) 1979 c. 37.

apply to an advertisement which invites the making of deposits unless the deposits are invited to be made only with offices of the deposit-taker in the United Kingdom or another member State.

(2) These Regulations do not apply to an advertisement which does not indicate the offices with which the deposits are invited to be made if the deposit-taker carries on a deposit-taking business in the United Kingdom or another member State.

(3) These Regulations do not apply to an advertisement which invites the making of deposits with an institution or unincorporated institution which is a body for the time being authorised under section 3 or 4 of the Insurance Companies Act 1982(a) to carry on insurance business of a class specified in Schedule 1 or 2 to that Act.

(4) These regulations do not apply—

- (a) in relation to any issue of a prospectus to which section 38 of the Companies Act 1948(b) applies or would apply if not excluded by paragraph (a) or (b) of subsection (5) of that section;
- (b) in relation to any issue of a prospectus to which section 417 of that Act applies or would apply if not excluded by paragraph (a) or (b) of subsection (5) of that section or by section 418 of that Act;
- (c) in relation to any issue of a form of application for shares in, or debentures of, a company, together with—
 - (i) a prospectus which complies with the requirements of the said section 38, or is not required to comply therewith because excluded by paragraph (a) or (b) of subsection (5) of that section, or
 - (ii) a prospectus which complies with the requirements of Part X of the said Act relating to prospectuses;
- (d) in relation to any issue of a form of application for shares in, or debentures of, a company where the form of application was issued either—
 - (i) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or
 - (ii) in relation to shares or debentures which were not offered to the public;
- (e) in relation to any issue of a form of application for any securities, if such form is issued with a document which either sets out the approved listing particulars for the purposes of The Stock Exchange (Listing) Regulations 1984(c) or indicates where such particulars can be obtained or inspected;
- (f) in relation to any issue of documents to which the corresponding Northern Ireland legislation applies (or would apply if not excluded by that legislation).

(a) 1982 c. 50.

(b) 1948 c. 38.

(c) S.I. 1984/716.

(5) These Regulations do not apply to an advertisement which invites the making of deposits on terms involving the issue by the deposit-taker of debt securities which have been admitted to official listing within a member State other than the United Kingdom.

(6) For the purposes of this Regulation “company” means—

- (a) any company which is a company within the meaning of section 455(1) of the Companies Act 1948,
- (b) any body corporate to which the prospectus and allotment provisions of that Act are applied by regulations made under section 435 of that Act,
- (c) any company of a kind described in section 417 of that Act,
- (d) any company or body corporate in respect of which the corresponding Northern Ireland legislation has effect.

(7) In this Regulation “the corresponding Northern Ireland legislation” means those provisions of the Companies Acts (Northern Ireland) 1960 to 1983 which correspond to any of the provisions of the Companies Act 1948 specified in this Regulation.

Control of advertisements

3. No advertisement shall be issued unless it complies with the following provisions of these Regulations.

General requirements for advertisements

4. Every advertisement shall state—

- (a) the full name of the deposit-taker,
- (b) the country or territory in which the deposit-taker’s principal place of business is situated, described as such, and
- (c) if the deposit-taker is a body corporate, the country or territory in which it is incorporated, described as such, unless this is the same as the country or territory referred to at sub-paragraph (b).

Assets and liabilities

5.— (1) Every advertisement shall state the amount of the paid-up capital and reserves, described as such, of the deposit-taker (if a body corporate) or the amount of the total assets less liabilities, described as such, of the deposit-taker (if a person other than a body corporate).

(2) Where an advertisement contains any reference to the amount of the assets of the deposit-taker it shall state with equal prominence the amount of the deposit-taker’s liabilities, described as such.

(3) Paragraphs (1) and (2) of this Regulation shall be treated as complied

with if the advertisement states that the amount of any assets or paid-up capital and reserves required to be stated exceeds an amount specified in the advertisement or that the amount of any liabilities required to be stated does not exceed an amount so specified.

(4) An advertisement shall not contain any reference to the assets or liabilities of any person other than the deposit-taker.

Deposit Protection arrangements

6.— (1) Every advertisement shall indicate the country or territory of the offices of the institution with which deposits are invited to be made, described as such, and shall contain a statement of the following terms, there being inserted where indicated respectively the name of the deposit-taker and the name of the country or territory outside the United Kingdom where the deposits are invited to be made—

“Deposits made with offices of [name of deposit-taker] in [name of country or territory] are not covered by the Deposit Protection Scheme under the Banking Act 1979”.

(2) The statement referred to in paragraph (1) of this Regulation shall (except in the case of advertisements which are in a spoken form) appear in the advertisement in a conspicuous position.

(3) An advertisement shall not state or imply that the deposits which are invited or their repayment, or interest or the payment of interest in respect of them, will be guaranteed, secured, insured or the subject of any other form of protection unless it states—

- (a) the form of the protection.
- (b) the extent of the protection, and
- (c) the full name of the person who will be liable to meet any claim by the depositor by virtue of the arrangements conferring the protection.

Interest

7.— (1) This Regulation applies to an advertisement which specifies the rate at which interest will be payable in respect of the deposits which are invited.

- (2) Every advertisement to which this Regulation applies shall state—
- (a) the minimum amount, if any, which must be deposited to earn that rate of interest,
 - (b) the period of time, if any, during which no interest will be payable,
 - (c) the minimum period of time, if any, during which a deposit must be retained by the deposit-taker in order to earn that rate of interest,
 - (d) the minimum period of notice, if any, which must be given before repayment may be required of a deposit earning that rate of interest, and
 - (e) the intervals at which the interest will be paid.
- (3) If the rate of interest which is specified is not an annual rate of simple

interest, the advertisement shall state the basis on which the rate will be calculated.

(4) If the rate of interest which is specified may be varied during the period for which the deposit will be held this shall be stated in the advertisement.

(5) If interest will or may not be paid in full at the rate which is specified, this shall be stated in the advertisement, and the advertisement shall state the nature and the amount or rate of any deductions which will or may be made from the interest before payment.

(6) If the rate of interest which is specified is or may not be the rate at which interest will be payable in respect of the deposits on the date on which the advertisement is issued this shall be stated in the advertisement, and the advertisement shall state the date on which interest was payable at the rate which is specified, such date being as close as reasonably practicable to the date on which the advertisement is issued.

(7) If an advertisement specifies more than one rate of interest payable in respect of deposits of a particular amount the advertisement shall contain the information required by any of the foregoing paragraphs of this Regulation in relation to each such rate.

(8) Where different rates of interest apply to deposits of different amounts, the advertisement shall contain the information required by any of the foregoing paragraphs of this Regulation in relation to each such rate.

Currency

8. Every advertisement shall state the currency in which the deposits will be made.

Supplementary provisions

9.—(1) Subject to paragraph (2) of this Regulation, the matters required by these Regulations to be included in an advertisement shall be shown clearly and legibly or, in the case of an advertisement by way of sound broadcasting, spoken clearly.

(2) In the case of an advertisement by way of television or exhibition or cinematographic films, the matters required by these Regulations to be included shall be shown clearly and legibly or spoken clearly.

Donald Thompson,
John Major,
Two of the Lords Commissioners
of Her Majesty's Treasury.

20th February 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply to advertisements inviting the making of deposits except in relation to the specified exclusions: in particular, the Regulations do not apply where the deposits are to be made only with offices in the United Kingdom or another member State of the European Communities, or, if there is no indication of the offices with which the deposits are to be made, if the deposit-taker carries on business there.

The Regulations specify matters which must and matters which must not be included in advertisements to which the Regulations apply, and in particular require the inclusion of particulars about the person taking the deposit, and contain provisions in connection with references to the deposit-taker's assets and liabilities, deposit protection arrangements, interest on deposits and the currency in which deposits are made.

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