

2010 No. 828

BANKS AND BANKING

**The Banking Act 2009 (Inter-Bank Payment Systems)
(Disclosure and Publication of Specified Information)
Regulations 2010**

<i>Made</i> - - - -	<i>17th March 2010</i>
<i>Laid before Parliament</i>	<i>18th March 2010</i>
<i>Coming into force</i> - -	<i>9th April 2010</i>

The Treasury make these Regulations in exercise of the powers conferred by sections 204(6), 204(8) and 259(1) of the Banking Act 2009(a).

Citation and commencement

1. These Regulations may be cited as the Banking Act 2009 (Inter-Bank Payment Systems) (Disclosure and Publication of Specified Information) Regulations 2010 and shall come into force on 9th April 2010.

Interpretation

2. In these Regulations—

“the Act” means the Banking Act 2009;

“public authority” means any body or person discharging functions of a public nature;

“specified information” means information obtained by the Bank of England by virtue of section 204(1) of the Act.

Disclosure of specified information

3.—(1) The Bank of England may disclose specified information—

(a) to the persons referred to in regulation 4, 5 or 6 for any of the purposes specified in those regulations;

(b) to any person—

(i) where necessary for any other purposes in connection with the Bank of England’s functions as an overseer of inter-bank payment systems (whether under Part 5 of the Act (inter-bank payment systems) or otherwise), or

(ii) in any case where the information has already lawfully entered the public domain.

(2) Paragraph (1)(a) overrides a contractual or other requirement to keep information in confidence.

(a) 2009 c.1.

- (3) The Bank of England may only disclose specified information under paragraph (1)(b)(i)—
- (a) with the consent of the person from whom the Bank of England obtained the information and, if different, the person to whom the information relates, or
 - (b) where the information is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.
- (4) Paragraph (1) is without prejudice to any other power to disclose information.

Disclosure of specified information: criminal investigations and proceedings

4. The Bank of England may disclose specified information to a public authority—
- (a) for the purposes of, or in connection with, any criminal investigation which is being, or may be, carried out in the United Kingdom;
 - (b) for the purposes of, or in connection with, any criminal proceedings which have been, or may be, initiated in the United Kingdom;
 - (c) for the purposes of, or in connection with, any proceedings which have been, or may be, brought under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (confiscation)(a);
 - (d) for the purposes of bringing to an end any investigation or proceedings referred to in paragraphs (a), (b) or (c), or of facilitating a determination of whether it or they should be brought to an end.

Disclosure of specified information: investigations and proceedings which may result in the imposition of civil penalties

5. The Bank of England may disclose specified information to a public authority—
- (a) for the purposes of, or in connection with, any investigation which may result in the imposition of civil penalties, which is being, or may be, carried out in the United Kingdom;
 - (b) for the purposes of, or in connection with, any proceedings which may result in the imposition of civil penalties, which have been, or may be, initiated in the United Kingdom;
 - (c) for the purposes of bringing to an end any investigation or proceedings referred to in paragraph (a) or (b), or of facilitating a determination of whether it or they should be brought to an end.

Disclosure of specified information to other persons

6. The Bank of England may disclose specified information to a person listed in the table in the Schedule for the purposes of enabling or assisting that person to discharge the functions specified in relation to that person in the second column of the table.

Publication of specified information

7.—(1) The Bank of England may publish specified information to the extent that publication is necessary for any purpose in connection with its functions as an overseer of inter-bank payment systems (whether under Part 5 of the Act or otherwise)—

- (a) where the information has already lawfully entered the public domain,
- (b) with the consent of the person from whom the Bank of England obtained the information and, if different, the person to whom the information relates, or

(a) 2002 c. 29. Part 2 (confiscation: England and Wales), Part 3 (confiscation: Scotland) and Part 4 (confiscation: Northern Ireland) have been subject to amendment.

(c) where the information is published in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(2) Where the specified information relates to a person who—

- (a) is, or has applied to become, a recognised investment exchange within the meaning of section 285 of the Financial Services and Markets Act 2000 (exemption for recognised investment exchanges and clearing houses)(a),
- (b) is, or has applied to become, a recognised clearing house within the meaning of that section, or
- (c) has, or has applied for, permission under Part 4 of that Act (permission to carry on regulated activities)(b),

before publishing that information, the Bank of England must consult the Financial Services Authority.

Frank Roy
Tony Cunningham

17th March 2010

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Regulation 6

Persons to whom the Bank of England may disclose specified information for specified purposes

<i>Body</i>	<i>Functions</i>
European Commission	Any of its functions.
The body known as the Panel on Takeovers and Mergers	Any of its functions.
The Office of Fair Trading	Any of its functions.
The Competition Commission	Any of its functions.
The Department of Enterprise, Trade and Investment in Northern Ireland	Its functions under— (a) Part 5 of the Companies (No 2) (Northern Ireland) Order 1990 (financial markets and insolvency)(c); (b) any other enactment in so far as it relates to the supervision of— (i) former authorised persons or persons who have carried on former regulated activities; or (ii) persons carrying on, or who have carried on, regulated activities.
A person appointed by the Treasury to hold an inquiry into matters relating to financial services (including an inquiry under section 15 of the Financial Services and Markets Act 2000 (power to appoint a person to hold an inquiry)), or an officer or member of staff of such an inquiry.	His or her functions for the purposes of carrying out the inquiry and reporting to the Treasury.

(a) 2000 c.8.

(b) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) specifies the kinds of activities which are regulated activities for the purposes of the Financial Services and Markets Act 2000. Section 19 of that Act prohibits persons who are not authorised or exempt from carrying on any regulated activity in the UK.

(c) S.I. 1990/1504 (N.I. 10). Articles 80, 82, 83, 85 and 95 amended by SR (NI) 1991/443. Articles 81, 84, 90 and 97 amended by S.I. 2005/1455 (N.I. 10). Articles 85, 89, 90 92, 98, 103, 105, 106, 111 and 112 amended by S.I. 2001/3649. Articles 91 and 93 repealed by S.I. 2001/3649. Article 104 amended by paragraph 23 of Schedule 3 to S.I. 2001/3929.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Banking Act 2009 (c. 1) (“the Act”).

These Regulations specify persons to whom the Bank of England may disclose information it has obtained by virtue of section 204(1) of the Act and the manner and extent of publication of such information.

Section 204(1) of the Act enables the Bank of England to require a person to provide information which the Bank thinks will help the Treasury in determining whether to specify an inter-bank payment system as a “recognised system” under section 184(1) of the Act, or which the Bank otherwise requires in connection with its functions under Part 5 of the Act (inter-bank payment systems) (“specified information”).

Section 204(4) provides that the Bank of England may disclose information obtained under section 204(1) to certain persons including the Treasury, the Financial Services Authority (“FSA”) and overseas authorities with similar functions to those of the Treasury, FSA or the Bank in respect of inter-bank payment systems. Section 204(6) of the Act provides that the Treasury may make regulations permitting the disclosure of specified information to other persons.

Regulations 3 to 6 specify the other persons to whom the Bank of England may disclose specified information and the circumstances in which it may do so, for example, for the purposes of criminal investigations and proceedings (regulation 4).

Section 204(7) permits the Bank of England to publish specified information. Regulation 7 specifies the manner and extent of publication under that subsection.

An Impact Assessment has not been prepared for this instrument as no significant impact on business, charities, voluntary bodies or the public sector is foreseen.

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