

EXPLANATORY MEMORANDUM TO
THE BANKING ACT 2009 (INTER-BANK PAYMENT SYSTEMS) (DISCLOSURE
AND PUBLICATION OF SPECIFIED INFORMATION) (AMENDMENT)
REGULATIONS 2015

2015 No. 488

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Banking Act 2009 (Inter-Bank Payment Systems) (Disclosure and Publication of Specified Information) Regulations 2010 (“the 2010 Regulations”). They allow the Bank of England (“the Bank”) to share information obtained by it in connection with its oversight of inter-bank payment systems with the Payment Systems Regulator (“the PSR”). Without these Regulations, the Bank would remain unable to share information that might be useful for the PSR’s functions, except when the information is relevant to financial stability. The widened remit of permitted information-sharing will enable the Bank and PSR to have an effective relationship.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative context

4.1 Section 98 of the Financial Services (Banking Reform) Act 2013 requires the PSR, the Bank, the Financial Conduct Authority (“the FCA”) and the Prudential Regulation Authority (“the PRA”) to ensure they exercise their functions in coordination with one another. Section 246 of the Banking Act 2009, as amended by the 2013 Act, allows the Bank to disclose information to the PSR only if it is relevant to financial stability. The 2010 Regulations enable the sharing of a wider category of information obtained by the Bank in connection with its oversight of inter-bank payment systems, and these Regulations add the PSR to the bodies to which the Bank may disclose such information from 1 April 2015, when the PSR’s functions come into force fully.

5. Territorial extent and application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In December 2013 the Financial Services (Banking Reform) Act 2013 received Royal Assent. The Act provided for the establishment of a new Payment Systems Regulator as a separate body under the FCA. The role of the PSR is to regulate payment systems in the UK, with objectives to promote competition and innovation in payment systems and the interests of service-users of those systems. The legislation requires that the PSR works with the FCA, the PRA and the Bank to ensure coordination of their regulatory functions.

7.2 The functions of the PSR will come into force fully on 1 April 2015. This instrument ensures that the Bank of England can disclose information obtained by the Bank in connection with its oversight of inter-bank payment systems that may enable or assist the PSR to discharge its functions, beyond the existing scope of permitted information sharing, which is limited to information relating to financial stability.

8. Consultation outcome

8.1 Although this instrument has not been subject to a dedicated consultation, the Treasury did consult publically on its proposals to establish the new Payment Systems Regulator (*Opening up UK payments*, published 26 March 2013). It ran until 25 June 2013, and received 80 substantive responses. As set out in the Government response to this consultation, published October 2013, the Government concluded that it was appropriate to proceed with the creation of the PSR.

9. Guidance

9.1 HM Treasury does not intend to issue any guidance in connection with this instrument.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 Therefore an impact assessment has not been prepared for this instrument.

11. Regulating small businesses

11.1 The legislation does not apply to small businesses.

12. Monitoring and review

12.1 The relevant bodies (HM Treasury, the Bank of England and the Payment Systems Regulator) will monitor and review the effectiveness and operation of these provisions from time to time.

13. Contact

Georgina Lee at HM Treasury (Tel: 020 7270 1721, email: Georgina.Lee@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.