
STATUTORY INSTRUMENTS

2010 No. ***

BANKS AND BANKING

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

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</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).

PART 1

Introduction

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 ***.

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.

PART 2

Disclosure of specified information

Disclosure of specified information

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

- (a) to the persons referred to in regulations 4, 5 or 6 for the purposes specified in those regulations;
 - (b) to any person—
 - (i) where necessary for any other purpose in connection with its functions as an overseer of inter-bank payment systems (whether under Part 5 of the Act or otherwise);
 - (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.
- (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 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 under Part 2, 3 or 4 of the Proceeds of Crime Act 2002(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 paragraphs (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 purpose of enabling or assisting that person to discharge the functions specified in the second column of the table.

(a) 2002 c. 29.

PART 3

Publication of specified information

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 obtained the information and, if different, the person to whom the information relates; or
- (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^(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 (regulated activities),

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

Name

Name

Date

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

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) ^(b) ; (b) any other enactment in so far as they relate to the supervision of— (i) former authorised persons or persons who have varied on former regulated activities; or (ii) persons carrying on, or who have carried on, regulated activities.

(a) 2000 c.8.

(b) S.I. 1990/1504 (N.I. 10).

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), 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.

Name

Name

Date

Two of the Lords Commissioners of Her Majesty's Treasury

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 it has 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.