Draft Regulations laid before Parliament under section 215 of the Banking Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

BANKS AND BANKING

The Scottish and Northern Ireland Banknote Regulations 2009

Made - - - -	*[]*
Coming into force - -	*23rd November 2009*

The Treasury make these Regulations in exercise of the powers conferred by sections 215 to 220, 222 to 224, 226 and 259(1) of the Banking Act 2009(**1**). In accordance with section 215 of that Act, a draft of these Regulations has been laid before and approved by resolution of each House of Parliament.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Scottish and Northern Ireland Banknote Regulations 2009 and shall come into force on 23rd November 2009.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Banking Act 2009;

"backing assets" means assets of a kind specified by regulation 6(2);

"Bank of England banknotes" means banknotes issued by the Bank of England;

"excluded banknote" has the meaning given by regulation 7(3);

"location" includes a vehicle;

"rules" means rules made by the Bank of England under these Regulations.

(2) For the purposes of these Regulations—

(**1**))2009 c. 1.

(a) a banknote is in circulation from the time that it is issued by an authorised bank until the time that it is returned to the bank;

(b) a banknote has the potential to enter circulation if the banknote is not—

(i) in circulation; or

(ii) an excluded banknote;

(c) a reference to the value of a banknote is a reference to the face value of the banknote.

PART 2

Bank of England

Rules

3.—(1) The Bank of England may, subject to the provisions of these Regulations, make rules about any aspect of the treatment, holding or issuing of banknotes by authorised banks.

(2) The Bank of England must make rules in respect of the matters referred to in regulations 6(2)(a), 7(1), 8(4)(b) and 11(1).

(3) The Bank of England must consult an authorised bank which is or may be affected by—

(a) a proposed rule; or

(b) the proposed amendment or revocation of a rule.

(4) Rules (including any rule amending or revoking a rule) may only be made with the approval of the Treasury.

(5) Rules must be published by the Bank of England.

Bank of England approval

4.—(1) Where these Regulations confer a power of approval on the Bank of England, the Bank of England may grant approval subject to conditions.

(2) The Bank of England may amend or revoke a condition to which an approval is subject.

(3) The Bank of England must consult an authorised bank which is or may be affected by—

(a) a proposed condition to which an approval may be subject;

(b) the proposed withdrawal of an approval; or

(c) the proposed amendment or revocation of a condition to which an approval is subject.

(4) An authorised bank must comply with any conditions to which an approval is subject.

Consultation before commencement of Regulations

5. Where the Bank of England is required by regulation 3(3), 4(3) or 7(5) to consult an authorised bank, the Bank of England may rely on consultation with the bank carried out before the coming into force of these Regulations.

PART 3

Requirements as to backing assets

Backing assets

6.—(1) An authorised bank must have backing assets in accordance with these Regulations and the rules.

(2) The following kinds of assets are specified as backing assets—

(a) Bank of England banknotes of such denominations and series as are specified in the rules;

(b) current coins of the United Kingdom; and

(c) funds placed on deposit in sterling in an account held by the Bank of England and designated by the Bank of England for the purposes of this regulation.

(3) Backing assets in the form of Bank of England banknotes must be held either—

(a) by the Bank of England; or

(b) at one or more locations for the time being approved by the Bank of England for this purpose.

(4) Backing assets in the form of coins must be held at one or more locations for the time being approved by the Bank of England for this purpose.

(5) At least 60% of a bank's backing assets which are held by a bank in respect of its banknotes in circulation must consist of assets of the kinds specified in paragraph (2)(a) and (b).

(6) The rules may prohibit an authorised bank from maintaining more than a specified proportion of its backing assets—

(a) in locations approved under paragraph (3)(b) or (4); or

(b) in the form of current coins of the United Kingdom.

(7) The rules may specify requirements with which an authorised bank must comply where it—

(a) places funds on deposit in an account designated under paragraph (2)(c); or

(b) holds backing assets in a location approved under paragraph (3)(b) or (4).

(8) Rules may specify the procedure by which authorised banks may acquire or dispose of Bank of England banknotes and coins held as backing assets.

Value of backing assets to be held by an authorised bank

7.—(1) The rules must make provision for determining the value of backing assets which must be held by an authorised bank.

(2) Excluded banknotes are not to be taken into account for the purposes of any such determination.

(3) An excluded banknote is a banknote of an authorised bank which satisfies—

(a) such requirements as the Bank of England may specify in the rules; and

(b) such conditions as may be specified for the purposes of this regulation by the Bank of England in relation to the banknotes of the bank.

(4) The Bank of England may amend or revoke any condition relating to an authorised bank's banknotes.

(5) The Bank of England must consult an authorised bank before specifying a condition in relation to its banknotes under paragraph (3)(b), or amending or revoking such a condition under paragraph (4).

Interest on a designated account

8.—(1) The Bank of England must pay interest to an authorised bank on the funds held by the bank in an account designated under regulation 6(2)(c).

(2) If the amount of funds held by the bank in a designated account exceeds the qualifying limit, the Bank of England shall only be required to pay interest on an amount equal to the qualifying limit.

(3) For the purposes of this regulation, the qualifying limit is an amount equal to the total of—

(a) 40% of the value of an authorised bank's banknotes in circulation; and

(b) the value of the bank's banknotes with the potential to enter circulation.

(4) Interest shall be—

(a) calculated on a daily basis at the rate paid on commercial bank reserves at the Bank of England; and

(b) credited to the account at the end of such periods as are specified in the rules.

Ownership of, and interests in, backing assets

9.—(1) A bank's backing assets are—

(a) assets of the bank; and

(b) held for the purpose of protecting holders of banknotes of the bank in accordance with these Regulations and the rules.

(2) No person may have any interest in or right over the backing assets, except as provided in these Regulations.

PART 4

Requirements as to banknotes

Unissued banknotes

10.—(1) An authorised bank may only arrange for a person to hold its banknotes on its behalf otherwise than as bearer where that person is for the time being approved by the Bank of England for this purpose.

(2) The rules may specify requirements with which an authorised bank must comply where it arranges for a person to hold its banknotes on its behalf otherwise than as bearer.

Cessation of note issue

11.—(1) The rules must set out the procedure which an authorised bank must follow if it—

(a) intends to stop issuing banknotes; or

(b) loses the right to rely on section 213 of the Act (saving for existing issuers) by virtue of—

(i) a determination by the Treasury under section 223(1)(b) of the Act (termination of right to issue); or

(ii) section 223(5) of the Act (bank ceasing to have permission to carry on the regulated activity of accepting deposits).

(2) Where an authorised bank stops issuing banknotes—

(a) these Regulations and the rules shall continue to apply to the bank for a period of two years from the date on which it stops issuing banknotes; and

(b) the Bank of England must, by the end of that period, return to the bank any of the bank's backing assets which it still holds.

(3) Rules under paragraph (1) may, in particular, specify—

(a) in a case where an authorised bank intends to stop issuing banknotes, the period of notice which the bank must give to the Bank of England before it stops issuing banknotes;

(b) the arrangements which an authorised bank must make for the purpose of bringing the following matters to the attention of the public—

(i) the proposed cessation or termination of note issue;

(ii) the effect of the Regulations and rules ceasing to apply after a period of two years; and

(iii) the arrangements which an authorised bank must make for the purpose of removing its banknotes from circulation.

Temporary continuation of note issuing after cessation

12.—(1) The Bank of England may, with the consent of the Treasury, permit an authorised bank to issue banknotes for a transitional period of no more than six months after the bank loses the right to rely on section 213 of the Act by virtue of section 223(4) or (5) of the Act.

(2) The Bank of England may grant such permission before or after the bank loses the right to rely on section 213.

(3) Where the Bank of England permits a bank to issue banknotes under paragraph (1), the total value at any time during the transitional period of the bank's banknotes in circulation and with the potential to enter circulation must not exceed the value of the bank's backing assets at that time.

(4) The Bank of England may grant permission under paragraph (1) subject to conditions.

(5) The Bank of England may, by giving reasonable notice to the bank—

(a) withdraw permission under paragraph (1);

(b) amend or revoke a condition to which the permission is subject.

PART 5

Information

Provision of information to the Bank of England

13.—(1) The rules may require authorised banks to provide the Bank of England with such information as it may reasonably require for the purpose of—

(a) exercising its functions under these Regulations or the rules; or

(b) verifying or monitoring a bank's compliance with a provision of these Regulations or the rules.

(2) The rules may specify the period within which, and the form in which, the information is to be provided.

(3) No person may be required by rules made under paragraph (1) to supply information that the person could not be compelled to supply in evidence in civil proceedings in the High Court or, in Scotland, in the Court of Session.