Draft Order laid before Parliament under section 40(2) of the Bank of England Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1998 No.

BANKS AND BANKING

The Bank of England (Information Powers) Order 1998

Made - - - -	*1998*
Coming into force - -	*1st June 1998*

Whereas a draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 40(2) of the Bank of England Act 1998(**1**);

Now, therefore, the Treasury, having consulted the Bank of England, the Office of National Statistics, such persons as appear to them to be representative of persons likely to be materially affected by the following Order, and such other persons as they consider appropriate, in exercise of the powers conferred on them by section 17(4) of that Act, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Bank of England (Information Powers) Order 1998, and shall come into force on 1st June 1998.

(2) In this Order—

"the Act" means the Bank of England Act 1998;

"asset" includes property or rights of any kind, and includes any interest, whether direct or indirect, whether present or future, and whether vested or contingent, in any asset;

"liability" includes any liability whether conditional or unconditional, whether present or future, and whether vested or contingent;

"overseas undertaking" means any undertaking which is not a UK undertaking;

"parent undertaking" and "subsidiary undertaking" have the same meaning as in Part VII of the Companies Act 1985(**2**), but as if (in each case)—

(a) the reference in section 260(2) of that Act (definition of "participating interest") to a holding of 20 per cent or more were a reference to a holding of 10 per cent or more, and

(**1**) 1998 c. 11.
(**2**) 1985 c. 6. See section 258, which was inserted by section 21(1) of the Companies Act 1989 (c. 40). Sections 259 and 260 of the 1985 Act were inserted by section 22 of the Companies Act 1989.

(b) the reference in section 258(4)(a) of that Act to a "dominant influence" were a reference to a "significant influence";

"securities" means shares, stock, debentures, debenture stock, loan stock, bonds, relevant debt securities (within the meaning of section 17 of the Act), units of a collective investment scheme (within the meaning of the Financial Services Act 1986(**3**)) and other securities of any description, and includes any interest in any security;

"UK undertaking" means an undertaking which is incorporated in any part of the United Kingdom, or is a partnership or other unincorporated association formed under the law of any part of the United Kingdom;

"undertaking" has the meaning given by section 259 of the Companies Act 1985.

Relevant financial affairs

2.—(1) The financial affairs of an undertaking which are relevant for the purposes of section 17 of the Act (power of the Bank to obtain information) are those financial affairs which relate to any of the following, namely:

(a) (subject to paragraph (2) below) the holding, acquisition, creation or disposal by the undertaking of any asset, or the extinction of any asset of the undertaking;

(b) the owing, incurring or discharge by the undertaking of any liability, or the extinction of any liability of the undertaking;

(c) (i) the charges made and interest rates applied by the undertaking, and

(ii) income received or receivable and expenditure incurred or to be incurred by the undertaking,

in relation to the provision of services or any other transaction;

(d) the making by the undertaking of any commitment to provide services or enter into any other transaction;

(e) (i) the holding, acquisition, creation or disposal of any asset by the undertaking acting in the capacity as agent of, or trustee for, any other person;

(ii) the owing, incurring or discharge of any liability by the undertaking acting in that capacity;

(iii) the extinction of any asset held, or liability owed, by the undertaking in that capacity;

(f) the issue or redemption by the undertaking of any securities;

(g) in the case of a UK undertaking, the acquisition or disposal of any interest (whether direct or indirect) in the undertaking by an overseas undertaking which is, or which becomes or ceases to be by virtue of that acquisition or disposal, a parent undertaking in relation to that UK undertaking;

(h) in the case of an overseas undertaking, the establishment, maintenance or closure by the undertaking of a place of business in the United Kingdom.

(2) In the case of a UK undertaking only, the reference in paragraph (1)(a) above to the holding, acquisition, creation, disposal or extinction of any asset includes:

(a) the acquisition or disposal by the undertaking of any interest (whether direct or indirect) in an overseas undertaking which—

(i) is, or becomes or ceases to be by virtue of that acquisition or disposal, a subsidiary undertaking of that UK undertaking, or

(**3**) 1986 c. 60.