
STATUTORY INSTRUMENTS

1994 No.524

BANKS AND BANKING

The Accountants (Banking Act 1987) Regulations 1994

Made - - - - - *3rd March 1994*

Coming into force - - - - - *1st May 1994*

Whereas it appears to the Treasury that accountants who are persons to whom section 47(1) of the Banking Act 1987(1) and the following Regulations apply are not subject to satisfactory rules made or guidance issued by a professional body specifying circumstances in which matters, are to be communicated to the Bank of England as mentioned in that section;

Whereas a draft of these Regulations has been approved by a resolution of each House of Parliament pursuant to section 47(6) of that Act;

The Treasury, in exercise of the powers conferred on them by section 47(5) of the Banking Act 1987 and of all other powers enabling them in that behalf, and after consultation with the Bank of England and such bodies as appear to the Treasury to represent the interests of accountants and authorised institutions, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Accountants (Banking Act 1987) Regulations 1994 and shall come into force on 1st May 1994.

Interpretation

2. In these Regulations—

“the Act” means the Banking Act 1987;

“auditor” means an auditor of an authorised institution who is an accountant;

“authorised institution” includes a former authorised institution;

“the Bank” means the Bank of England;

“matters” means any matter to which section 47 of the Act(2) applies;

“the Regulations” means the Banking Coordination (Second Council Directive) Regulations 1992(3); and

(1) 1987 c. 22.

(2) Section 47 was amended by paragraph 12 of Schedule 8 to the Banking Coordination (Second Council Directive) Regulations 1992 (S.I.1992/3218).

(3) S.I.1992/3218.

“reporting accountant” means a person appointed to make a report under section 8(5) or 39(1)(b) of the Act who is an accountant.

Matters to be communicated to the Bank

3.—(1) Matters are to be communicated to the Bank by an auditor or reporting accountant in the circumstances specified in paragraph (2) below.

(2) The circumstances referred to in paragraph (1) above are circumstances in which the matters are such as to give an auditor or reporting accountant reasonable cause to believe—

- (a) that any of the criteria specified in Schedule 3 to the Act⁽⁴⁾ is not or has not been fulfilled, or may not be or may not have been fulfilled, in respect of the authorised institution of which he is an auditor or the institution or authorised institution in relation to which his reporting accountant’s report is made, as the case may be; and
- (b) that the matters are likely to be of material significance for the exercise, in relation to such an institution or authorised institution, of the Bank’s functions under the Act or under the Regulations.

3rd March 1994

Tim Wood
Nicholas Baker
Two of the Lord’s Commissioners of Her
Majesty’s Treasury

(4) Schedule 3 was amended by regulation 27 of the Banking Coordination (Second Council Directive) Regulations 1992 (S.I.1992/3218).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the recommendation in the Report of the Bingham Inquiry into the supervision of the Bank of Credit and Commerce International published on 22nd October 1992 that a statutory duty should be imposed on the auditors of banks to report to the Bank of England matters which were relevant to the fulfilment by banks of the criteria for authorisation in Schedule 3 to the Banking Act 1987.

By virtue of section 47(5) of the Act, the effect of these Regulations is to impose a duty on accountants who are the auditors of authorised institutions or former authorised institutions governed by the Banking Act 1987 or are reporting accountants appointed under the Act to communicate to the Bank of England matters of which they have become aware in their capacity as such where they have reasonable cause to believe that the institution concerned may not be meeting one or more of the minimum criteria for authorisation in Schedule 3 to the Act and that the matters are likely to be of a material significance for the exercise of the Bank's regulatory functions.