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STATUTORY INSTRUMENTS

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**2009 No. 314**

**BANKS AND BANKING**

**The Bank Administration (Sharing  
Information) Regulations 2009**

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| <i>Made</i>                   | - - - - | <i>19th February 2009</i> |
| <i>Laid before Parliament</i> |         | <i>20th February 2009</i> |
| <i>Coming into force</i>      | - -     | <i>21st February 2009</i> |

The Treasury, in exercise of the powers conferred by sections 148(5) and 259(1) of the Banking Act 2009(1), make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Bank Administration (Sharing Information) Regulations 2009 and come into force on 21st February 2009.

**Interpretation**

2. In these Regulations—

“the Act” means the Banking Act 2009;

“HMRC” means Her Majesty’s Revenue and Customs;

“Objective 1” means the first objective of bank administration as defined in sections 137 and 138 of the Act;

“order” means a bank administration order (see section 141 of the Act);

“original bank” means a bank as it existed before a property transfer instrument was made in relation to it;

“residual bank”—

in Regulations 5 to 10, has the meaning given by section 157(2) of the Act;

in the Schedule, means a bank in temporary public ownership all or part of whose business has been transferred in accordance with a property transfer order made under section 45(2) of the Act;

“transferred business” —

(a) in Regulations 5 to 10, means the part of an original bank’s business transferred under a property transfer instrument;

- (b) in the Schedule, means the part of the bank in temporary public ownership's business transferred in accordance with a property transfer order made under section 45(2) of the Act.

### **Application to bank administration following transfer to a bridge bank**

3. Regulations 5 to 10 apply to bank administration following a transfer to a bridge bank in accordance with sections 12 and 148(1) of the Act.

### **Application to bank administration where Part 3 is applied by section 152 of the Act**

4.—(1) Regulations 5 to 10 apply, with the modifications specified in Tables 1 and 2 of the Schedule, to bank administration following a transfer of business from a bank in temporary public ownership (2).

(2) Table 1 applies in cases where section 148 is applied following a transfer from a bank in temporary public ownership to a company wholly owned by the Bank of England(3).

(3) Table 2 applies in cases where section 148 is applied following a transfer from a bank in temporary public ownership to a company wholly owned by the Treasury or a nominee of the Treasury.

### **Information to be provided to the bank administrator appointed in the first 5 days of the bank administration**

5.—(1) This regulation applies where—

- (a) the bank administrator has been appointed by the order, or
- (b) the bank administrator has been appointed to replace the bank administrator appointed by the order (or where joint administrators were appointed, to replace all of them) within 5 days of the order being made.

(2) The classes of information that must be provided by the Bank of England to the bank administrator under section 148(2) of the Act, within the period of 5 days beginning with the day on which the bank administrator is appointed, are—

- (a) an estimate of the net value of the original bank,
- (b) an estimate of the net value of the bridge bank,
- (c) a list of assets and liabilities of the original bank that have been transferred to the bridge bank, including details of —
  - (i) any charged assets and the creditors holding those charges,
  - (ii) any contingent assets transferred to the bridge bank, and
  - (iii) any liabilities (including contingent liabilities), and
- (d) details of any supplemental property transfers or reverse property transfers that have been made,

in each case as comprehensive as is reasonably possible and current as at the date it is provided.

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(2) Section 152 applies bank administration where the Treasury make a share transfer order, in respect of securities issued by a bank (or a bank's holding company), in accordance with section 13(2), and later make a property transfer order from the bank (or another bank which is or was in the same group as the bank) under section 45(2).

(3) Section 148 applies, with specific modifications, depending on whether the business of the bank has been transferred to (a) a company wholly owned by the Bank of England; or (b) a company wholly owned by the Treasury or a nominee of the Treasury. The modifications are set out in Table 1 of the Schedule to the Banking Act 2009 (Bank Administration) (Modification for Application to Banks in Temporary Public Ownership) Regulations 2009 (S.I. 2009/312).

### **Information to be provided to the bank administrator otherwise**

6.—(1) This regulation applies where the bank administrator has been appointed otherwise than as described in regulation 5(1).

(2) The classes of information that must be provided by the Bank of England to the bank administrator under section 148(2) of the Act, within the period of 5 days beginning with the day on which the bank administrator is appointed, are—

- (a) details of the net value of the bridge bank, current as at the date on which the information is provided, and
- (b) an outline of the information provided to a former bank administrator under section 148(2) of the Act, and, where the matters to which that information relates have changed, updated information, current as at the date on which the information is provided.

### **Information to be provided on request by the bridge bank to the bank administrator**

7. The classes of information that must be provided by the bridge bank to the bank administrator on request under section 148(3) of the Act are—

- (a) details as to the net value of the bridge bank, management accounts and other information including ledgers, cash books, bank statements, invoices and orders in relation to the transferred business current as at the date on which the information is provided,
- (b) details of any supplemental property transfers or reverse property transfers that have been made, and
- (c) details of any amounts of money to be paid to the residual bank from a scheme established by a resolution fund order.

### **Information to be provided on request by the bank administrator to the Bank of England**

8. The classes of information that must be provided by the bank administrator to the Bank of England on request under section 148(4)(a) of the Act are as follows—

- (a) information required in connection with the Bank of England's role under Part 3 of the Act and under rules made under section 411 of the Insolvency Act 1986(4) in respect of Part 3,
- (b) information regarding the bank administrator's plans for the administration of the residual bank, further to any information provided in the bank administrator's statement of proposals, that may have an impact on the residual bank's ability to meet Objective 1,
- (c) information regarding the residual bank's employees, assets and liabilities and its relationships with suppliers that may have an impact on the residual bank's ability to meet Objective 1,
- (d) information about—
  - (i) wrongful trading (see section 213 of the Insolvency Act 1986),
  - (ii) fraudulent trading (see section 214 of the Insolvency Act 1986), or
  - (iii) negligence,carried out by the directors of the original bank and identified by the bank administrator,
- (e) information about any steps taken by the bank administrator in respect of a director of the original bank under the Company Directors Disqualification Act 1986(5), and
- (f) information about any litigation that the bank administrator is pursuing on behalf of the residual bank.

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(4) 1986 c.45.

(5) 1986 c.46.

**Information to be provided on request by the bank administrator to the bridge bank**

9. The classes of information that must be provided by the bank administrator to the bridge bank on request under section 148(4)(c) of the Act are—

- (a) statutory accounts, management accounts and other information including ledgers, cash books, bank statements, invoices and orders in relation to the transferred business,
- (b) the following information relating to the transferred business—
  - (i) financial information relating to property, rights and liabilities,
  - (ii) personnel records, salary information etc relating to employees, and
  - (iii) details of any licenses, permissions, approvals and intellectual property rights.
- (c) information in relation to contracts, the rights and obligations of which have been transferred to the bridge bank,
- (d) information required by public or regulatory bodies (in the United Kingdom and overseas) including FSA or HMRC,
- (e) information about customers and suppliers which are part of the transferred business,
- (f) information about target customers, channels to market, distribution networks and other marketing and sales material relating to the transferred business,
- (g) information about the original bank's previous trading history required to prepare an investment memorandum,
- (h) any other information a potential purchaser asks the bridge bank to provide, and
- (i) information in connection with any agreement drawn up between the bank administrator and the bridge bank for the supply by the residual bank of services and facilities to the bridge bank.

**Records to be made accessible by the bank administrator**

10. The class of records that the bank administrator must allow the Bank of England and the bridge bank access to under section 148(4)(b) and (d) of the Act is any records required in connection with the classes of information specified in regulations 8 and 9, whether in hard copy or in electronic form.

19th February 2009

*Dave Watts*  
*Steve McCabe*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULE

Regulation 4

**Table 1: Modifications to Regulations 5 to 10 in cases where section 148 is applied following a transfer from a bank in temporary public ownership to a company wholly owned by the Bank of England**

| <i>Regulation</i> | <i>Modification or Comment</i>   |
|-------------------|--|
| 5                 | <p>For paragraph (2) substitute—</p> <p>“(2) The classes of information that must be provided by the Treasury to the bank administrator under section 148(2) of the Act, within the period of 5 days beginning with the day on which the bank administrator is appointed, are—</p> <ul style="list-style-type: none"> <li>(a) an estimate of the net value of the bank before the transfer of property in accordance with a property transfer order made under section 45(2) of the Act,</li> <li>(b) a list of assets and liabilities of the residual bank that have been transferred to the company wholly owned by the Bank of England, including details of— <ul style="list-style-type: none"> <li>(i) any charged assets and the creditors holding those charges,</li> <li>(ii) any contingent assets transferred to the company wholly owned by the Bank of England, and</li> <li>(iii) any liabilities (including contingent liabilities), and</li> </ul> </li> <li>(c) details of any supplemental property transfers or reverse property transfers that have been made, in each case as comprehensive as is reasonably possible and current as at the date it is provided.” <p>After paragraph (2) insert—</p> <p>“(3) The Bank of England must provide to the bank administrator, within the period of 5 days beginning with the day on which the bank administrator is appointed, an estimate of the net value of the company wholly owned by the Bank of England, as comprehensive as is reasonably possible and current as at the date it is provided.”</p> </li></ul> |
| 6                 | <p>For paragraph (2) substitute—</p> <p>“(2) The classes of information that must be provided by the Bank of England to the bank administrator under section 148(2) of the Act, within the period of 5 days beginning with the day on which the bank administrator is appointed, are—</p> <ul style="list-style-type: none"> <li>(a) details of the net value of the company wholly owned by the Bank of England, current as at the date on which the information is provided, and</li> <li>(b) an outline of the information provided to a former bank administrator under section 148(2) of the Act, and, where the matters to which that information</li> </ul>   |

|    |   |
|----|---|
|    | <p>relates have changed, updated information, current as at the date on which the information is provided.”.</p> <p>After paragraph (2) insert—</p> <p>“(3) The Treasury must provide to the bank administrator, within the period of 5 days beginning with the day on which the bank administrator is appointed, an outline of the information provided to a former bank administrator under section 148(2) of the Act, and, where the matters to which that information relates have changed, updated information, current as at the date on which the information is provided.”.</p> |
| 7  | <p>For the heading, substitute “Information to be provided on request by the company wholly owned by the Bank of England to the bank administrator”.</p> <p>For “bridge bank” substitute “company wholly owned by the Bank of England” (in each case).</p> <p>Ignore sub-paragraph (c).</p>   |
| 8  | <p>For the heading, substitute “Information to be provided on request by the bank administrator to the Treasury and the Bank of England”.</p> <p>After “Bank of England” insert “and the Treasury”.</p> <p>In sub-paragraph (a) after “Bank of England’s” insert “or the Treasury’s”.</p> <p>In sub-paragraphs (d) and (e) substitute “original bank” for residual bank”.</p>   |
| 9  | <p>For the heading, substitute “Information to be provided on request by the bank administrator to the Treasury and the company wholly owned by the Bank of England”</p> <p>In Regulation 9 (other than in sub-paragraphs (h) and (i)) for “bridge bank” substitute “company wholly owned by the Bank of England and the Treasury”.</p> <p>In sub-paragraphs (h) and (i) for “bridge bank” substitute “company wholly owned by the Bank of England” (in each place).</p> <p>In sub-paragraph (g) for “original bank” substitute “residual bank”.</p>                                    |
| 10 | <p>For “the Bank of England and the bridge bank” substitute “the Treasury, the Bank of England and the company wholly owned by the Bank of England”.</p>  |

**Table 2: Modifications to Regulations 5 to 10 in cases where section 148 is applied following a transfer from a bank in temporary public ownership to a company wholly owned by the Treasury or a nominee of the Treasury**

| <i>Regulation</i> | <i>Modification or Comment</i>   |
|-------------------|--|
| 5 to 10           | <p>For “the Bank of England” substitute “the Treasury” (in each place).</p> <p>For “bridge bank” substitute “company wholly owned by the Treasury or a nominee of the Treasury” (in each place).</p> <p>For “original bank” substitute “residual bank” (within the meaning of sub-paragraph (b) of the definition of “residual bank” in Regulation 2).</p> |
| 7                 | Ignore sub-paragraph (c).  |

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 148 of the Banking Act 2009 (c.1) (“the Act”).

These Regulations apply to bank administration (Part 3 of the Act) in certain cases and prescribe the classes of information to be provided to the bank administrator, or on request to be provided by the bank administrator, in order to allow the bank administrator to fulfil his or her duties in the bank administration effectively.

Regulation 3 specifies that Regulations 5 to 10 apply to bank administration following a transfer to a bridge bank in accordance with section 12 (bridge bank) and section 148(1) of the Act.

Regulation 4 specifies that Regulations 5 to 10 apply with the modifications set out in Tables 1 and 2 of the Schedule to bank administration following the transfer by the Treasury of the securities of a bank or a bank holding company into temporary public ownership in accordance with section 13(2) of the Act and a transfer of property from that bank in accordance with section 45(2) of the Act. In such a case, section 148 applies with modifications. These modifications are set out in Table 1 of the Schedule to the Banking Act 2009 (Bank Administration) (Modification for Application to Banks in Temporary Public Ownership) Regulations 2009 (S.I. 2009/312), which were made under the power conferred by section 152(3) of the Act (property transfer from temporary public ownership).

Regulations 5 and 6 set out the information to be provided to the bank administrator under section 148(2) of the Act.

Regulations 7, 8 and 9 set out the information to be provided by the bank administrator on request under section 148(3), (4)(a) and (4)(c) of the Act.

Regulation 10 sets out the class of records to be made available by the bank administrator under section 148(4)(b) and (d) of the Act.

An impact assessment of the effect of the Banking Act 2009 is available on HM Treasury’s website ([www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)).

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