



**THE SCOTTISH AND NORTHERN  
IRELAND BANKNOTE RULES  
2009**

**and**

**STATEMENT OF PENALTY POLICY**



# The Scottish and Northern Ireland Banknote Rules 2009

<b>INTRODUCTION</b> .....	<b>4</b>
<i>Enabling provisions etc</i> .....	4
<b>RULE 1</b> .....	<b>5</b>
CITATION, COMMENCEMENT, INTERPRETATION AND CONDITIONS.....	5
<i>Citation and Commencement</i> .....	5
<i>Interpretation</i> .....	5
<i>Notices</i> .....	5
<i>Conditions</i> .....	6
<b>RULE 2</b> .....	<b>7</b>
VALUE OF BACKING ASSETS TO BE HELD.....	7
<i>Notes With the Potential to Enter Circulation</i> .....	7
<i>Notes In Circulation</i> .....	8
<b>RULE 3</b> .....	<b>10</b>
BACKING ASSETS.....	10
<i>Notes and Coin at Approved Locations</i> .....	10
<b>RULE 4</b> .....	<b>13</b>
HOLDING OF BACKING ASSETS.....	13
<i>Specified Backing Assets</i> .....	13
<i>Movement of Backing Assets</i> .....	13
<i>Account at the Bank of England</i> .....	14
<i>Notes at the Bank of England</i> .....	14
<b>RULE 5</b> .....	<b>16</b>
EXCLUDED NOTES AND DESTRUCTION OF NOTES.....	16
<i>Excluded Notes</i> .....	16
<i>Applications for Designation of Locations</i> .....	16
<i>Movement of Excluded Notes</i> .....	17
<i>Destruction of Notes</i> .....	18
<b>RULE 6</b> .....	<b>20</b>
AGENTS.....	20
<b>RULE 7</b> .....	<b>22</b>
REPORTING AND PROVISION OF INFORMATION ETC.....	22
<i>Reporting Deadlines</i> .....	22
<i>Other Reporting Requirements</i> .....	24
<i>Annual Reports</i> .....	24
<i>Report by a Skilled Person</i> .....	25
<i>New Denominations</i> .....	25
<b>RULE 8</b> .....	<b>27</b>
CONTINGENCY PLANS.....	27
<b>RULE 9</b> .....	<b>28</b>
CESSATION OF NOTE ISSUE.....	28
<i>Notification</i> .....	28
<i>Public Announcement</i> .....	28
<i>Loss of Issuing Rights of the Authorised Bank</i> .....	29
<i>Following Cessation</i> .....	30
<b>RULE 10</b> .....	<b>31</b>
NOTE EXCHANGE PROGRAMME.....	31



## The Scottish and Northern Ireland Banknote Rules 2009

<i>Specifications</i> .....	31
<i>Loss of Issuing Right of Another Authorised Bank</i> .....	32
<b>RULE 11</b> .....	<b>33</b>
APPEALS RELATING TO PENALTIES .....	33
<b>STATEMENT OF PENALTY POLICY</b> .....	<b>35</b>
PENALTIES.....	35
<i>Penalties</i> .....	36
<i>Factors which the Bank may take into Account</i> .....	36



## INTRODUCTION

### Enabling provisions etc

- 1 The following rules are made under Part 6 of the Banking Act 2009 (c. 1) and the Scottish and Northern Ireland Banknote Regulations 2009 (S.I. XX/2009).
- 2 By virtue of section 11 of the Interpretation Act 1978 (c. 30), expressions used in Part 6 of that Act or in those Regulations have, unless the contrary intention appears, the same meaning in the Rules.
- 3 The Background and Commentaries do not form part of the Rules and have no legal effect.



## **RULE 1**

### **Citation, Commencement, Interpretation and Conditions**

#### **Citation and Commencement**

- 1.1 These rules:
- a. are made on [date];
  - b. shall come into effect on 23 November 2009; and
  - c. may be cited as the Scottish and Northern Ireland Banknote Rules 2009.

#### **Interpretation**

- 1.2 In these Rules:

“accounting reference date” has the meaning given in section 391 of the Companies Act 2006 (c. 46);

“authorised signatory” has the meaning given in rule 7.22;

“the Bank” means the Bank of England;

“the Bank’s appointee” means an officer or servant of the Bank or such other person as the Bank may appoint for the purposes of these Rules;

“business day” means a day other than:

- (a) a Saturday or Sunday;
- (b) Christmas Day or Good Friday; or
- (c) a day which, in England and Wales, is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80);
- (d) a day which, in the relevant authorised bank’s territory of issue is a bank holiday under that Act;

“Deposit Forecast” has the meaning given in rule 2.6;

“Excluded Notes” means notes excluded from the backing assets requirements by virtue of Rule 5;

“financial year” has the meaning given in section 390 of the Companies Act 2006;

“note” means a banknote within the meaning of section 208 of the Act;

“the Regulations” means the Scottish and Northern Ireland Banknote Regulations 2009 and “regulation” is to be construed accordingly;

“value” means the face value of the notes or coin.

#### **Notices**

- 1.3 All applications made and notifications given under these rules must be in writing.



## Conditions

- 1.4 Where the Bank imposes conditions relating to approved locations, Excluded Notes or Authorised Agents, an authorised bank must not disclose conditions imposed by the Bank, except:
- a. where the Bank has given written consent to the disclosure; or
  - b. to the extent required by law; or
  - c. so long as the disclosure is in circumstances where a duty of confidentiality applies and the disclosure is only:
    - i. to the extent required to give effect to those conditions; or
    - ii. to another authorised bank; or
    - iii. to a legal or professional advisor.

### **Commentary**

- i A printed copy of the Rules will be sent to each authorised bank each time that they are changed.*
- ii The current Rules will be published on the Bank's website, [www.bankofengland.co.uk](http://www.bankofengland.co.uk).*
- iii Conditions may contain restricted information such as security or commercially sensitive information. Restrictions therefore apply to their disclosure.*



## RULE 2

### Value of Backing Assets to be Held

#### **Background**

*Rule 2 contains provisions about the calculation of “Notes With the Potential to Enter Circulation” and “Notes In Circulation”, which are relevant to the calculation of backing assets and, under regulation 6(5), to the form in which backing assets must be held.*

*In setting the value of backing assets that must be held, the Bank may specify certain notes as Excluded Notes: such notes do not need to be backed. The requirements under which notes are to be excluded are contained in Rule 5, subject to such conditions as the Bank may impose.*

#### **The Banking Act 2009**

*Section 217 – Backing Assets*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 6 – Backing Assets*

*Regulation 7 – Value of Backing Assets to be held by an Authorised Bank*

- 2.1 An authorised bank must hold backing assets to the value of all its notes, whether issued or not, except Excluded Notes.
- 2.2 Notes that must be backed fall into two categories: Notes In Circulation, and Notes With the Potential to Enter Circulation. For the purposes of these Rules, these must be calculated according to the following provisions.
- 2.3 Once a note being printed satisfies the definition of “banknote” in section 208 of the Act, it is a Note in Circulation unless:
  - a. the print location is a designated location for the purposes of Rule 5 and the requirements of that Rule and any relevant conditions are satisfied (in which case the note is an Excluded Note); or
  - b. the person contracted to print the notes is an Approved Agent under Rule 6, but the print location is not designated (in which case the note can be treated as a Note With the Potential to Enter Circulation).

### Notes With the Potential to Enter Circulation

- 2.4 A Note With the Potential to Enter Circulation is a note of an authorised bank which it holds and which is not an Excluded Note.
- 2.5 An authorised bank may treat its notes held by an Approved Agent not as bearer as Notes With the Potential to Enter Circulation, provided that the authorised bank has not received any value in respect of those notes.
- 2.6 An authorised bank may treat as Notes With the Potential to Enter Circulation notes that it has received within a deposit of mixed notes which have been processed through a note counting machine to verify authenticity and value, but which have not yet been sorted from the other notes in the deposit (the ‘Deposit Forecast’).



- 2.7 In order to estimate the Deposit Forecast for the purposes of rule 2.6, an authorised bank must use the following formula:

Total Value of the deposit \* Y/Z, where:

Y = Value of the authorised bank's Notes In Circulation (in Scotland or Northern Ireland, as the case may be) as last reported, in £ millions.

Z = Value of total of all authorised banks' Notes In Circulation (in Scotland or Northern Ireland, as the case may be) as provided by the Bank, in £ millions.

### Notes In Circulation

- 2.8 A Note In Circulation is a note of an authorised bank which is not a 'Note With the Potential to Enter Circulation' nor an Excluded Note.

- 2.9 On commencement of these Rules authorised banks must use the following formula to determine the value of its Notes In Circulation ("NIC"):

$$\text{NIC} = \text{P} - \text{D} - \text{N} - \text{E}$$

**P** is the value of all its notes ever printed.

**D** is the value of all its notes ever destroyed by the authorised bank or on its behalf.

**N** is the value of its Notes With the Potential to Enter Circulation (as calculated for the purposes of these Rules).

**E** is the value of its Excluded Notes (as calculated for the purposes of these Rules).

- 2.10 Thereafter, Notes in Circulation must be calculated as follows:

$$\text{NIC}_n = \text{NIC}_{(n-1)} + \text{P}_n - \text{D}_n +/\text{-} \text{N}_n +/\text{-} \text{E}_n$$

**NIC<sub>(n-1)</sub>** is the value of the **NIC** at the end of the previous period.

**P<sub>n</sub>** is the value of notes printed during the period of calculation.

**D<sub>n</sub>** is the value of notes Destroyed during that period.

**N<sub>n</sub>** is the value of the change in Notes With the Potential to Enter Circulation during that period (decrease to be added/increase to be deducted).

**E<sub>n</sub>** is the value of the change in other Excluded Notes during that period (decrease to be added/increase to be deducted).

#### Commentary

- i "Banknote" is defined in section 208 of the Act. For the purposes of these Rules, this first applies once the "promise to pay" and signature are added to a note.
- ii Every note of an authorised bank ever produced and which has not been destroyed by or on behalf of the authorised bank is a 'Note in Circulation', a 'Note With the Potential to Enter



## The Scottish and Northern Ireland Banknote Rules 2009

*Circulation', or an 'Excluded Note'. It follows that notes of an authorised bank that, unknown to the authorised bank, have been accidentally destroyed while in circulation and so cannot be presented for payment, continue to count as Notes In Circulation for the purposes of Rule 2.*

*iii In normal circumstances, the authorised bank receives face value whenever one of its notes is put into circulation, by the person taking it as bearer. But notes which have been stolen from the authorised bank and not recovered are also in circulation, because face value is payable on demand on presentation by the bearer for payment.*

*iv The following is an example of a calculation of the Deposit Forecast for the purposes of calculating Notes With the Potential to Enter Circulation.*

*Where an authorised bank in Scotland has a deposit on a particular day of £1,060,000, its Notes In Circulation as last reported are £1,201 million and the figure for the total notes of authorised banks in Scotland in circulation as last provided by the Bank is £3,232 million, then:*

*£1,060,000 \* £1,201 million/£3,232 million = £393,892 of the deposited notes can be treated as the Deposit Forecast for the purpose of Notes With the Potential to Enter Circulation.*



## RULE 3

### Backing Assets

#### **Background**

*Backing assets are assets used to back the note issue of an authorised bank.*

*The Regulations specify that at least 60% of an authorised bank's Notes In Circulation must be backed by Bank of England notes and UK coin and that the remainder, plus all Notes With the Potential to Enter Circulation, must be backed either by such notes and coin or by way of an interest bearing account at the Bank. Backing assets in the form of notes have to be held at the Bank or at a location approved for this purpose by the Bank, while backing assets in the form of coin must be held at a location approved for this purpose by the Bank (see Rule 4).*

#### **The Banking Act 2009**

*Section 217 – Backing Assets*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 3 – Rules*

*Regulation 6 – Backing assets*

*Regulation 7 – Value of backing assets to be held by an authorised bank*

### Notes and Coin at Approved Locations

- 3.1 An authorised bank may only apply for a location to be approved by the Bank of England for the holding of its backing assets (an “approved location”) if the location is within the United Kingdom.
- 3.2 An application by an authorised bank for the Bank to approve a location for the holding of its backing assets must include the following information:
  - a. full address of the property;
  - b. legal and beneficial owner of the property;
  - c. freehold/leasehold status of the property;
  - d. mortgages, liens and any other charges against the property;
  - e. details of all other persons with a legal or beneficial interest in the property;
  - f. OS 1:1250 scale map of the location marked with the boundaries of the property;
  - g. floor plan of the buildings forming part of the location;
  - h. details of insurance policy of the location including the risk covered, any excess and any limits;
  - i. any further information that the Bank may reasonably require.
- 3.3 If facilities at the location are to be operated on behalf of the authorised bank by a third party, the following information must also be provided:
  - a. legal name of the third party;
  - b. a copy of any outsourcing agreement between the authorised bank and the third party;



## The Scottish and Northern Ireland Banknote Rules 2009

- c. any further information that the Bank may reasonably require.
- 3.4 Where the Bank has refused to grant an authorised bank approval of a location for the holding of its backing assets, any subsequent application by the authorised bank in respect of that location must include details of any steps taken to remedy any deficiencies previously identified by the Bank and capable of remedy.
- 3.5 An authorised bank applying for the approval of a location for the holding of its backing assets must arrange for any inspections of the location by the Bank's appointee necessary or desirable to establish whether it is appropriate to grant approval.
- 3.6 Where the Bank grants an authorised bank approval of a location for the holding of its backing assets subject to conditions, the authorised bank must ensure that the approved location meets those conditions.
- 3.7 The Bank may revoke its approval of an approved location on such notice as is reasonable in the circumstances.
- 3.8 An authorised bank must permit the Bank's appointee to inspect its approved locations, or ensure that he or she can do so, for the purpose of monitoring continued compliance with the relevant requirements and conditions. Such inspections may take place unannounced and may include the opening of cages, parcels of notes and bags or rolls of coin.

### **Commentary**

#### **Approved Locations**

- i Locations approved by the Bank for the holding of backing assets are referred to as 'approved locations'. They may (but need not) also be designated locations for the purposes of Rule 5.*
- ii The Bank will endeavour to notify the authorised bank of its decision regarding the approval of a location within sixty working days of the completed application being received. Where the approval process cannot be completed within sixty working days the Bank will aim to inform the authorised bank of the reasons for the delay and the expected date a decision will be notified.*
- iii Approval of a location for the holding of backing assets will be confirmed to the authorised bank in writing, stating the date from which approval takes effect.*
- iv Where it grants approval, the Bank may impose conditions.*
- v Inspection by the Bank's appointee will normally be followed by a formal process of written feedback and a timetable for rectifying any problems identified, including provision for re-inspection where necessary or desirable.*
- vi The Bank may, at its own discretion, grant a location approval on a temporary basis until such time as the formal approval process can be completed. Such approval of any location does not necessarily mean approval will continue to be granted once the process is complete.*
- vii Approval may also be granted subject to conditions that the authorised bank must rectify any problems identified by the Bank within a certain timeframe.*
- viii The Bank may tailor the conditions to the characteristics of individual locations.*
- ix Where the facilities at a location are operated by a third party, the Bank expects there to be an outsourcing agreement in place and the agreement may be the subject of conditions imposed by*



## The Scottish and Northern Ireland Banknote Rules 2009

*the Bank*

- x Where the Bank declines an application for approval, the Bank will normally provide a written explanation of the reasons for its decision and, where appropriate, the action that the Bank considers may be necessary for the location to be suitable for approval.*
- xi The extent of notice for the revocation of the approved status of a location will depend on the circumstances of the case, including the seriousness of any breach of the relevant requirements or conditions. In some cases it may be necessary to revoke approval on the day that the authorised bank is notified. Once approval of a location is revoked, any notes or coin held there will no longer count as backing assets.*



## RULE 4

### Holding of Backing Assets

#### **Background**

*The Regulations provide that (except for notes held at the Bank) notes and coin held as backing assets must be held at a location approved by the Bank.*

*This Rule 4 specifies the denominations and series of notes that can be held as backing assets. The rule also covers the holding of notes at the Bank as backing assets and some requirements for the interest bearing designated backing account.*

#### **The Banking Act 2009**

*Section 217 – Backing Assets*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 6 – Backing assets*

*Regulation 7 – Value of backing assets to be held by an authorised bank*

*Regulation 8 – Interest on a designated account*

### Specified Backing Assets

- 4.1 The specified denominations and series of Bank of England notes for the purpose of Regulation 6(2)(a)(backing assets) are:
- a. where the note is held by the Bank for the purpose of regulation 6(3)(a), any series and any denomination of note;
  - b. where the note is held at an approved location in accordance with regulation 6(3)(b):
    - i. the series from time to time being issued by the Bank of any denomination which is legal tender in England and Wales under section 1 of the Currency and Bank Notes Act 1954 (c. 12); and
    - ii. any denominations of series E or series F, including any variants of those series.

### Movement of Backing Assets

- 4.2 Industry standard vehicles of members of the British Security Industry Association (BSIA) are approved locations for the purpose of transporting backing assets between the (non-vehicular) approved locations of an authorised bank, subject to the following conditions:
- a. the notes or coin must be insured for full value whilst in transit between such locations;
  - b. notes must not be in a vehicle for longer than 24 hours before being delivered to a (non-vehicular) approved location;
  - c. coin must not be in a vehicle for longer than 48 hours before being delivered to a (non-vehicular) approved location;
  - d. the vehicle must remain within the United Kingdom; and



## The Scottish and Northern Ireland Banknote Rules 2009

- e. the notes or coin must be reported as specified in rule 4.3 and Rule 7.
- 4.3 Where an authorised bank intends to move backing assets in accordance with rule 4.2 between 4pm on a day and 6am on the following day:
- a. in the report it gives as of 4pm, it must report those backing assets as to be in transit during that period; and
  - b. if the backing assets are delivered to a (non-vehicular) approved location of the authorised bank that during period, it must, until 6am, hold them as backing assets at that location.
- 4.4 Where an authorised bank reports backing assets as held at one of its (non-vehicular) approved locations in the report it gives as of 4pm on a day, it must hold those backing assets as backing assets at that approved location until 6am the next day.

### **Account at the Bank of England**

- 4.5 An application by the authorised bank for the Bank to open a sterling account in the name of the authorised bank and to designate it as a backing account (a “designated backing account”) must include a copy of the Bank’s designated backing account Terms and Conditions, as provided by the Bank, signed on behalf of the authorised bank.
- 4.6 The authorised bank may only make a request to withdraw funds from its designated backing account:
- a. where permitted by the Bank, through the Notes IT System portal in accordance with the Bank’s procedures; or
  - b. in the event that the authorised bank cannot use the portal (whether because it lacks permission or because the portal is unavailable), using the Alternative Processing Procedures specified in Rule 7.
- 4.7 An authorised bank must give the Bank at least three working days notice of any request to change the account into which payment may be made from its designated backing account.
- 4.8 An authorised bank may not withdraw funds from its designated backing account where the Bank has notified it that the Bank is of the opinion that a withdrawal would result in the authorised bank failing fully to back its note issue.
- 4.9 Any interest on a designated backing account shall be credited to the account at the end of each month so as to be available on the first business day of the following month.

### **Notes at the Bank of England**

- 4.10 An authorised bank may only hold backing assets in the form of notes at the Bank if it has a designated backing account.
- 4.11 An authorised bank wishing to acquire notes from the Bank to be held at the Bank as backing assets or return such notes to the Bank must:



## The Scottish and Northern Ireland Banknote Rules 2009

- a. make the relevant request on a business day, by 2pm on the day in question;
- b. instruct the Bank to fund the transaction by debiting or (as the case may be) crediting its designated backing account; and
- c. where permitted by the Bank, use the Notes IT system portal in accordance with the Bank's procedures; or
- d. in the event that the authorised bank cannot use the portal (whether because it lacks permission or because the portal is unavailable) make requests using the alternative processing procedures specified in Rule 7.

### **Commentary**

#### ***Movement of Backing Assets***

- i Notes or coin reported as backing assets can be transferred between an authorised bank's approved locations without ceasing to be backing assets.*
- ii Apart from the period between 4pm on a business day and 6am on the following business day, these Rules do not preclude an authorised bank from replacing backing assets with other backing assets, provided that the replacement backing assets are in place and satisfy all the relevant requirements and conditions before the original backing assets are removed.*
- iii If the conditions for the Approved Location at which the backing assets are being held are breached (for example, as a result of a successful robbery) then steps must be taken immediately to ensure that any notes and/or coins that have ceased to be backing assets are replaced at the earliest possible opportunity.*

#### ***Account at the Bank of England***

- iv The interest bearing account at the Bank of England for holding backing assets is known as the 'designated backing account'.*
- v The designated backing account is also to be used in relation to the funding of any acquisitions by the authorised bank of notes to be held as backing assets at the Bank of England.*
- vi In the event of the Notes IT system being unavailable the Alternative Processing Procedures contained in Rule 7 are to be used.*



## RULE 5

### Excluded Notes and Destruction of Notes

#### **Background**

*“Excluded Notes” do not have to be backed provided that the relevant requirements of this Rule 5 and any conditions specified by the Bank are satisfied.*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 7 – Value of backing assets to be held by an authorised bank*

### Excluded Notes

- 5.1 Notes of an authorised bank are Excluded Notes provided that:
- a. they are held at a location designated in accordance with this Rule 5 (a “designated location”);
  - b. all conditions which the Bank specifies as applicable to the notes are complied with; and
  - c. the notes are:
    - i. new notes;
    - ii. notes awaiting destruction;
    - iii. notes held by the printer;
    - iv. returned notes; or
    - v. working stock.
- 5.2 Notes which are not in a category specified in rule 5.1 are Excluded Notes if:
- a. the Bank has specified conditions for the purpose of this rule 5.2; and
  - b. those conditions are complied with.

- 5.3 For the purposes of this Rule 5:

“new notes” means uncirculated notes of an authorised bank held by the authorised bank in unopened parcels, as packed by the printer;

“notes awaiting destruction” means notes of an authorised bank awaiting destruction, having been deemed by the authorised bank as unfit to return to circulation, or being of a design that the authorised bank is no longer issuing;

“the printer” means a person contracted by the authorised bank to print the notes;

“returned notes” means notes of an authorised bank that have been returned to the authorised bank after being processed through a note sorting machine by another commercial issuer, to verify authenticity and confirm value, and for which value has been given; and

“working stock” means notes of an authorised bank that have previously been issued, are not issued, but are being held by the authorised bank awaiting reissue.

### Applications for Designation of Locations

- 5.4 An authorised bank may only apply for the Bank to designate a location for the holding of its Excluded Notes if the location is within the United Kingdom.



## The Scottish and Northern Ireland Banknote Rules 2009

- 5.5 Any application by an authorised bank for the Bank to designate a location must include the following information:
- full address of the property;
  - legal and beneficial owner of the property;
  - freehold/leasehold status of the property;
  - mortgages, liens and any other charges against the property;
  - details of all other persons with a legal or beneficial interest in the property;
  - OS 1:1250 scale map of the location marked with the boundaries of the property;
  - floor plan of the buildings forming part of the location;
  - details of insurance policy of the location including the risk covered, any excess and any limits;
  - any further information as the Bank may reasonably require.
- 5.6 If the facilities at the location are operated on behalf of the authorised bank by a third party, the following information must also be provided:
- legal name of the third party;
  - a copy of any outsourcing agreement between the authorised bank and the third party;
  - any further information that the Bank may reasonably require.
- 5.7 Where the Bank has refused to designate a location, any subsequent application by the authorised bank in respect of that location must include details of steps taken to remedy any deficiencies identified by the Bank and capable of remedy.
- 5.8 An authorised bank applying for designation of a location must arrange for any inspections of the location by a Bank's appointee necessary or desirable to establish whether it is appropriate to designate the location.
- 5.9 The Bank may revoke its designation of a location on such notice as is reasonable in the circumstances.
- 5.10 An authorised bank must permit the Bank's appointee to inspect its designated locations, or ensure that he or she can do so, for the purpose of monitoring continued compliance with the relevant requirements and conditions. Such inspections may take place unannounced and may include the opening of cages and parcels of notes.

### **Movement of Excluded Notes**

- 5.11 Industry standard vehicles of members of the British Security Industry Association (BSIA) are designated locations for the purpose of transporting notes between the (non-vehicular) designated locations of an authorised bank, subject to the following conditions:
- the notes must be insured for full value whilst in transit between such locations;
  - notes must not be in a vehicle for longer than 24 hours before being delivered to a (non-vehicular) designated location; and
  - the notes must be reported as specified in rule 5.12 and Rule 7.



- 5.12 Where an authorised bank intends to move Excluded Notes in accordance with rule 5.11 between 4pm on a day and 6am on the following day:
- a. in the report it gives as of 4pm, it must report those Excluded Notes as to be in transit during that period; and
  - b. where the Excluded Notes are delivered to a (non-vehicular) designated location of the authorised bank during that period, it must, until 6am, hold them as Excluded Notes at that location.
- 5.13 Where an authorised bank reports certain Excluded Notes as held at a (non-vehicular) designated location in the report it gives under Rule 7 as of 4pm on a day, it must hold those notes as Excluded Notes at that designated location until 6am the next day.

## **Destruction of Notes**

- 5.14 When an authorised bank destroys its notes, it must ensure that they are granulated or shredded using appropriate machinery so as to make it impossible to reconstruct an individual banknote.

### ***Commentary***

#### ***Excluded Notes***

- i. Locations approved by the Bank for the holding of certain categories of Excluded Notes are referred to as 'designated locations'. They may (but need not) also be approved locations for the purposes of Rule 3.*
- ii. The categories of notes in rule 5.1 would be treated as Notes With the Potential to Enter Circulation if they are not held at a designated location in accordance with any relevant requirements and conditions.*
- iii. The Bank will endeavour to notify the authorised bank of its decision regarding the approval of a designated location within sixty working days of the completed application being received. Where the approval process cannot be completed within sixty working days the Bank will aim to inform the authorised bank in writing of the reasons for the delay and the expected date a decision will be notified.*
- iv. Designation of a location will be confirmed to the authorised bank in writing, stating the date from which designation takes effect.*
- v. The Bank may impose conditions where it designates a location.*
- vi. Inspection by the Bank's appointee will normally be followed by a formal process of written feedback and a timetable for rectifying any problems identified, including provision for re-inspection where necessary or desirable.*
- vii. The Bank may, at its discretion, grant designation of a location on a temporary basis until such time as the formal approval process can be completed. Such designation of any location does not necessarily mean approval will continue to be granted once the process is complete.*
- viii. Designation of a location may also be granted subject to conditions that the authorised bank must rectify any problems identified by the Bank within a certain timeframe.*
- ix. Where the Bank declines an application for designation, the Bank will normally provide a written explanation of the reasons for its decision and, where appropriate, the necessary corrective action.*



## The Scottish and Northern Ireland Banknote Rules 2009

- x. *The Bank may tailor the conditions to the characteristics of individual locations.*
- xi. *The extent of notice for the revocation of the designation of a location will depend on the circumstances of the case, including the seriousness of any breach of the relevant requirements or conditions. In some cases it may be necessary to revoke designation on the day that the authorised bank is notified. Once designation of a location is revoked, any notes held there will need to be immediately backed.*

### **Excluded Notes on non-business days**

- xii. *Apart from the period between 4pm on a business day and 6am on the following business day, these Rules do not preclude an authorised bank from removing Excluded Notes from the conditions for exclusion, provided that backing assets satisfying all the relevant requirements and conditions are in place to back the Excluded Notes before they are withdrawn.*
- xiii. *If the conditions for the designated location at which the Excluded Notes are being held are nevertheless breached (for example, as a result of a successful robbery) then steps must be taken immediately to ensure that the notes that have ceased to be Excluded Notes are backed at the earliest possible opportunity.*



## RULE 6

### Agents

#### **Background**

*The Bank may approve an agent of the authorised bank, such as another commercial bank, cash handler or printer of notes, to hold notes of the authorised bank not as bearer, and thereby enable those notes to be backed as Notes With the Potential to Enter Circulation. This rule covers the requirements imposed on the authorised bank in this situation.*

#### **The Banking Act 2009**

*Section 218 – Information*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 10 – Unissued Notes*

- 6.1 An application by an authorised bank for a person to be approved to hold its notes other than as bearer (an “Approved Agent”) must include the following information:
- full legal name of the agent;
  - details of the usual business of the agent;
  - specific tasks the agent will carry out on behalf of the authorised bank;
  - location(s) where the authorised bank’s notes, not being held as bearer, will be held by the agent;
  - details of the insurance policy of such location(s), including the risk covered, any excess and any limits;
  - any further information that the Bank may reasonably require.
- 6.2 An authorised bank must, in respect of each of its Approved Agents, annually certify (within five working days of the anniversary of approval) that any notes held in the past year by the agent, acting as such, have been held not as bearer.
- 6.3 An authorised bank with an Approved Agent must authorise and instruct the agent to cooperate with the Bank in relation to any enquiry that the Bank makes to verify the value and denominations of the authorised bank’s notes that the agent holds or has held other than as bearer.
- 6.4 It is a condition of an approval under rule 6.1 that upon request by the Bank:
- the authorised bank must provide a demonstration or explanation of the procedures that are in place for the Approved Agent to report to it when notes are issued by the agent;
  - the authorised bank must submit its records relating to notes held by an Approved Agent, other than as bearer, to the Bank for audit.

#### **Commentary**

*i. Notes held by an Approved Agent other than as bearer are Notes With the Potential to Enter Circulation. It is possible for an Approved Agent to hold notes as Excluded Notes provided that the notes are held at a designated location. Where an authorised bank wants this arrangement to apply, an application for the designation of the location where those notes will be held needs to be made under Rule 5.*



## The Scottish and Northern Ireland Banknote Rules 2009

*ii. Notes held by an Approved Agent may only be Notes With the Potential to Enter Circulation if they are held not as bearer. Whenever an agent acquires notes of an authorised bank for value, those notes are Notes In Circulation and the agent is the bearer.*

*iii. In practice the Bank would usually expect Approved Agents to be persons such as financial institutions and/or professional cash handlers with adequate control procedures and experience in cash processing/distribution. A printer could also be an Approved Agent.*

*iv. Where the Bank deems it necessary the Bank may withdraw approval of the agent.*



## RULE 7

### Reporting and Provision of Information etc

**Background**

*Authorised banks are required to report data to the Bank. Some data can be reported in for a preceding period, but some must be reported on a same day basis. The data that are required to be reported daily are needed for compliance purposes, as without this information the Bank cannot effectively ensure that the backing requirements are being complied with at all times. In addition to the data reporting, the Act and Regulations make provision for annual reports and reports by skilled persons.*

**The Banking Act 2009**

*Section 218 – Information*

**The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 14 – Provision of information to the Bank of England*

*Regulation 15 – Reports as to banknotes and backing assets*

*Regulation 16 – Independent Reports*

### Reporting Deadlines

7.1 An authorised bank must report to the Bank in respect of the notes listed in column 1 of Table 1 at the frequency in column 2 by the deadline in column 3 in accordance with rules 7.2 to 7.8.

<b>Column 1 Data to be Reported</b>	<b>Column 2 Reporting Frequency</b>	<b>Column 3 Reporting Deadline</b>
Excluded Notes: value by denomination held at each designated location (as applicable) as at 4pm on the day.	Report for every day (including non-business days).	4.30pm on each day.
Backing assets: value by denomination held at each approved location as at 4pm on the day.	Report for every day (including non-business days).	4.30pm on each day.
Estimate of (i) peak value of Notes In Circulation for the following week, and (ii) as at the time of that peak, of Notes With the Potential to Enter Circulation and Excluded Notes.	Report once per week.	5pm on each Thursday in respect of the reporting week that begins on that day.



## The Scottish and Northern Ireland Banknote Rules 2009

Notes In Circulation: value by denomination as at 9am on each day, or such other time as agreed with the Bank.	Report for every day (including non-business days).	5pm on each Thursday in respect of each day of the preceding week.
Notes With the Potential to Enter Circulation: value by denomination as at 9am on each day, or such other time as agreed with the Bank.	Report for every day (including non-business days).	5pm on each Thursday in respect of the days of the preceding week.
Print orders for notes: value by denomination.	Report for each day an order is placed.	5pm on each Thursday.
Destruction of notes: value by denomination.	Report for each day of the preceding week (including non-business days) on which destruction took place.	5pm on each Thursday.

- 7.2 A reporting week runs from midnight at the start of Thursday to midnight at the end of the following Wednesday.
- 7.3 The authorised bank must report its data by using a reporting system provided by the Bank.
- 7.4 Where an authorised bank does not intend to make a report on a non-business day:
- a. it must report information required on a daily basis by 4.30pm on the preceding business day;
  - b. it may report information required on a weekly basis by 5pm on the next business day.
- 7.5 Before the deadline in column 3, an authorised signatory of the authorised bank must approve the reporting data entered in the system.
- 7.6 If an authorised signatory of the authorised bank does not approve the data entered into the reporting system before the deadline, the data is not considered to have been reported.
- 7.7 Where an authorised bank does not have historic data for the value of Notes In Circulation by denomination, it may report the value of notes for which denomination is unknown as ‘denomination unknown’.
- 7.8 For reporting Notes With the Potential to Enter Circulation:
- a. a breakdown by denomination must be by:
    - i. actual denomination; or
    - ii. a reasonable estimate of the breakdown of denomination, provided that the authorised bank has first notified the Bank of its method of calculation;
  - b. the value for ‘Deposit Forecast’ may be entered without a breakdown by denomination.



## Other Reporting Requirements

- 7.9 An authorised bank must provide such additional information on its notes held by Approved Agents other than as bearer as the Bank may from time to time require.
- 7.10 An authorised bank must notify the Bank and provide it with full details without delay in the event that it becomes aware of any of the following circumstances having an impact on it in relation to its notes or backing assets, except where the matter relates to counterfeiting:
- a. commencement of civil proceedings;
  - b. prosecution for an offence involving fraud or dishonesty;
  - c. any alleged acts of fraud;
  - d. reporting or recording irregularities, whether or not there is evidence of possible fraud;
  - e. any matter that could have a serious regulatory impact on the authorised bank, including affecting the authorised bank's reputation or ability to provide adequate service and protection to its noteholders.
- 7.11 An authorised bank must notify the Bank and provide it with relevant information without delay if any of the following circumstances occur:
- a. a transaction or linked transactions results in a change in ownership of shares with aggregate voting rights of 30% or more in:
    - i. the authorised bank; or
    - ii. a parent undertaking of the authorised bank, within the meaning of section 1162 of the Companies Act 2006;
  - b. a change of legal or trading name of the authorised bank;
  - c. a change in the address of its registered office.

## Annual Reports

- 7.12 An authorised bank must, for each financial year, provide the Bank with a report prepared by a suitably qualified and experienced independent auditor appointed by the authorised bank (the "annual report").
- 7.13 For the financial year in which these Rules come into force, the annual report must cover the period from the day these rules come into force until the authorised bank's next accounting reference date.
- 7.14 The authorised bank must provide the annual report within three months of the relevant accounting reference date.
- 7.15 The annual report must cover:
- a. the accuracy of the information or reports provided by the authorised bank in accordance with these Rules; and
  - b. the adequacy of the methods used by the authorised bank to calculate or obtain the information or compile the reports.
- 7.16 The annual report must include a signed statement of the auditor's opinion on the quality of daily and weekly reporting provided by the bank in that year, including:
- a. the figures for actual values, number and denomination, reported to the bank for:
    - i. Notes In Circulation;



## The Scottish and Northern Ireland Banknote Rules 2009

- ii. Notes With the Potential to Enter Circulation;
    - iii. Excluded Notes;
    - iv. Backing assets held at approved locations;
  - b. the reliability and robustness of the methods the authorised bank has used to calculate these values;
  - c. if the authorised bank has Approved Agents, the quality of the authorised bank's procedures for obtaining reporting information from the Approved Agent(s);
  - d. the quality of the authorised bank's procedures for ensuring compliance at all times with the conditions for approved and designated locations.
- 7.17 The costs associated with providing the annual report are to be borne by the authorised bank.

### **Report by a Skilled Person**

- 7.18 An authorised bank must provide a report to the Bank prepared by a person nominated or approved by the Bank (a "nominated skilled person") where:
- a. the Bank has notified the authorised bank that it has nominated or approved the person in accordance with regulation 15(3);
  - b. the notice confirms the matter about which the Bank requires a report; and
  - c. the notice specifies the period to which the report must relate.
- 7.19 In such circumstances, the authorised bank must:
- a. appoint and instruct the nominated skilled person to prepare a report in accordance with the notice; and
  - b. provide the nominated skilled person with such access, assistance, information and explanations as the nominated skilled person requires in order to prepare the report.
- 7.20 The costs associated with providing a report by a nominated skilled person are to be borne by the authorised bank.

### **New Denominations**

- 7.21 An authorised bank intending to issue a denomination of note other than £1, £5, £10, £20, £50 or £100 must notify the Bank at least six months before the new denomination is first issued.

### **Authorised signatures**

- 7.22 An authorised bank must provide the Bank with an authorised signatures list including a specimen signature of each person authorised by that bank to sign documents for the purposes of these Rules (an "authorised signatory").
- 7.23 An authorised bank must notify the Bank of any changes to its authorised signatures list and, where appropriate, provide an updated authorised signatures list.



## Alternative Processing Procedures

- 7.24 In the event that any of the standard processing or reporting systems is not available or the authorised bank is not permitted to use them, the following procedures must be used (and which may not be used if the standard systems are available and their use is permitted):
- a. an authorised bank must complete such forms as the Bank may require;
  - b. all such forms must be signed by an authorised signatory and where required contain a valid random security number from a list of random security numbers provided to the authorised bank by the Bank;
  - c. deadlines for reporting using these procedures are the same as for standard procedures.

### **Commentary**

- i *When estimates of the denominational split of Notes With the Potential to Enter Circulation or Notes In Circulation are reported, the total of the estimates should equal the total value of the authorised bank's Notes With the Potential to Enter Circulation or Notes In Circulation in existence at that time.*

### **Alternative Processing Procedures**

- ii *Random security numbers and instructions for their use will be provided by the Bank to each authorised bank separately.*



## RULE 8

### Contingency Plans

#### **Background**

*Events that could cause an authorised bank to fail, or a sudden increase in demand for notes from one or more issuer or the Bank, need to be managed and planned for to ensure both noteholder protection and that public confidence in notes is maintained.*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 3 – Rules*

*Regulation 26 – Rules relating to a Note Exchange Programme*

- 8.1 An authorised bank must prepare and maintain a contingency plan.
- 8.2 The authorised bank must submit to the Bank a draft of the contingency plan annually on or before 1 July in each year or such other date as the Bank may agree.
- 8.3 The authorised bank must incorporate into the contingency plan such amendments to the draft as the Bank may reasonably require.
- 8.4 The authorised bank's contingency plan must cover, as a minimum, the following scenarios:
- Scenario A: A loss of public confidence in commercial notes, or another event, which leads to:
- i. a run on its notes (being, for these purposes, an increase in demand of 20% or more over the normal value);
  - ii. a run on the notes of another authorised bank;
  - iii. a run on the notes of all authorised banks.
- Scenario B: A theft of its notes to the value of 5% or more of its Notes In Circulation, resulting in the need urgently to withdraw one or more denominations.
- Scenario C: The counterfeiting of one or more of its note designs so that it has to remove that design or those designs from circulation.
- Scenario D: The loss of issuing rights by one or more other authorised banks which issue notes in the same territory as the authorised bank.
- 8.5 The authorised bank must include in its contingency plan detailed processes to be followed in each of the scenarios A to D.
- 8.6 The authorised bank must carry out an annual scenario test, testing at least one scenario A to D each year on a rotating basis.
- 8.7 The authorised bank must confirm to the Bank details of the results of its annual scenario test within one month of the test being carried out.



## RULE 9

### Cessation of Note Issue

#### **Background**

*An authorised bank may choose to cease issuing banknotes. Once an authorised bank has voluntarily ceased issuing it loses its right to rely on section 213 of the Act (saving for existing issuers).*

*It may also lose the right to rely on section 213 by virtue of a Treasury determination to that effect (see section 223(1) and (4)), a loss of Part 4 permission under the Financial Services and Markets Act 2000 (see section 223(5)) or by virtue of insolvency (see section 220(5)). This Rule 8 relates to the circumstances other than insolvency.*

#### **The Banking Act 2009**

*Section 219 – Ceasing the business of issuing notes*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 11 – Cessation of note issue*

*Regulation 13 – information*

### Notification

- 9.1 An authorised bank must, subject to any overriding legal obligation to make a disclosure, notify the Bank of an intention to cease issuing notes at least three months before any public announcement of such an intention is made.
- 9.2 The notification must contain:
- the date on which it intends to make public announcement of its intention to cease issuing notes;
  - the date it intends to cease issuing notes (which must be no earlier than two months after the public announcement);
  - the reason for its decision to cease issuing notes.

### Public Announcement

- 9.3 Before voluntarily ceasing to issue notes, an authorised bank must make a public announcement containing at least the following information:
- the date of cessation of issue;
  - the arrangements, including timetable, for the withdrawal of the authorised bank's Notes In Circulation;
  - information on the alternative arrangements for future note provision to depositors and other customers; and
  - that backing assets will only be maintained for two years from the date of cessation of issue.
- 9.4 The authorised bank must make its public announcement from at least two months before the date of cessation, as a minimum, by:
- displaying notices at each of its branches;
  - making leaflets containing the announcement available at each of its branches; and
  - publishing the announcement in media likely to be seen by its noteholders.



## The Scottish and Northern Ireland Banknote Rules 2009

- 9.5 The authorised bank must publish the announcement at least one month prior to the date of cessation of issue:
- a. in the Edinburgh Gazette, if it issues notes in Scotland; or
  - b. in the Belfast Gazette, if it issues note in Northern Ireland.

### Loss of Issuing Rights of the Authorised Bank

- 9.6 The following rules 9.7 to 9.10 apply where an authorised bank:
- a. loses the right to rely on section 213 of the Act (saving for existing issuers) by virtue of:
    - i. a determination made by the Treasury under section 223(1)(b) (termination of right to issue);
    - ii. section 223(5) (loss of permission under Part 4 of the Financial Services and Markets Act 2000); or
  - b. becomes aware that it has reason to consider that it might lose that right by virtue of such circumstances.
- 9.7 The authorised bank must immediately;
- a. notify the Bank that it has lost the right to rely on section 213 or (as the case may be) that it has reason to consider that it might do so; and
  - b. provide details of the circumstances by virtue of which it has lost or that it has reason to consider that it might lose that right
- 9.8 The authorised bank must apply to the Bank if it wishes the Bank to permit the authorised bank to issue notes for a transitional period in accordance with regulation 12, confirming the date on which it wishes the transitional period to start and end.
- 9.9 Upon losing the right to rely on section 213 of the Act in the circumstances referred to in rule 9.6, the authorised bank must make a public announcement containing at least the following information:
- a. the fact that the authorised bank has lost the right to issue notes by virtue of such circumstances;
  - b. the date of the end of any transitional period;
  - c. the arrangements, including timetable, for the withdrawal of the authorised bank's Notes In Circulation;
  - d. information on the alternative arrangements for future note provision to depositors and other customers;
  - e. that backing assets will only be maintained for two years from the date that the authorised bank lost its right under section 213 of the Act;
  - f. such other information as may assist the public with obtaining value in exchange for notes of the authorised bank.
- 9.10 The authorised bank must make the public announcement, as a minimum, by:
- a. displaying notices at each of its branches;
  - b. making leaflets containing the announcement available at each of its branches; and
  - c. publishing the announcement:
    - i. in media likely to be seen by its noteholders; and
    - ii. in the Edinburgh Gazette, if it issues notes in Scotland; or
    - iii. in the Belfast Gazette, if it issues notes in Northern Ireland.



## Following Cessation

- 9.11 The authorised bank must promptly destroy or arrange for destruction of its notes which are:
- a. in its possession on the date of cessation of issue; or
  - b. subsequently returned to its possession.
- 9.12 The authorised bank must make suitable arrangements with other financial institutions, representatives of the cash handling industry and major retailers for the withdrawal from circulation of the authorised bank's notes from the date of cessation of issue.
- 9.13 If, during the two year period following the date of cessation of issue, the authorised bank enters an insolvency process the requirements of this Rule 8 shall cease to apply.

### **Commentary**

- i Cessation of note issuing means ceasing issuing all designs and denominations that the authorised bank issues.*
- ii "Insolvency process" is defined in regulation 19(1).*
- iii The date of cessation of issue is the date on which the authorised bank ceases to put its own notes into, or back into, circulation.*



## RULE 10

### Note Exchange Programme

#### **Background**

*In the event of an authorised bank entering an insolvency process (see Part 6 of the Regulations) the Bank is responsible for managing a note exchange programme. These Rules will provide the Bank with the information it needs to run the programme and to help maintain confidence in the remaining authorised banks' notes. This includes requiring information about note specification and detection equipment for all authorised banks, so that the Bank is fully prepared to organise a note exchange programme at any time.*

#### **The Banking Act 2009**

*Section 220 – Insolvency, &c.*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 3 – Rules*

*Regulation 22 – Note exchange programme*

*Regulation 23 – Rights of noteholders*

*Regulation 24 – Backing assets*

*Regulation 25 – Note exchange programme: commencement and duration*

*Regulation 26 – Unissued Banknotes*

*Regulation 27 – Rules relating to a note exchange programme and destruction of banknotes*

*Regulation 28 – Temporary continuation of note issuing after insolvency*

*Regulation 29 – Notes issues after loss of note issuing rights*

- 10.1 The provisions of rules 10.2 to 10.4 apply to an authorised bank which enters an insolvency process.
- 10.2 The authorised bank must cooperate with and facilitate the arrangements of the note exchange programme to be administered by the Bank.
- 10.3 The authorised bank must provide the Bank with immediate access to all backing assets and unissued notes.
- 10.4 The authorised bank must not use, move or otherwise deal with or permit any use of, movement of or other dealing with backing assets or unissued notes without the consent of the Bank.

### Specifications

- 10.5 The provisions of rules 10.6 to 10.8 apply to all authorised banks.
- 10.6 An authorised bank must provide the Bank with the detailed specifications of all the series of its notes currently in issue and, where it intends to issue a new series, prior to issuing any such new series. Specifications are to include all security features (overt, machine-readable, and others).



## The Scottish and Northern Ireland Banknote Rules 2009

- 10.7 An authorised bank must provide the Bank with details of the detection equipment on its sorting machines for its notes.
- 10.8 An authorised bank must provide the Bank with a copy of its mutilated notes policy and procedures. A copy is to be provided to the Bank at least annually, as updated from time to time.

### **Loss of Issuing Right of Another Authorised Bank**

- 10.9 Where an authorised bank has lost issuing rights because it has become insolvent, other authorised banks must (upon the Bank making arrangements for reimbursement for the face value of notes collected):
- a. give such assistance as the Bank may reasonably request in operating a note exchange programme;
  - b. if requested by the Bank, exchange the notes of the affected bank:
    - i. subject to them having sufficient of their own notes available to comply, for their own notes; or
    - ii. otherwise, for value in such form as the Bank reasonably requests, and
  - c. if requested by the Bank and in accordance with such reasonable instructions as the Bank may give, dispose of the notes it receives.



## RULE 11

### Appeals Relating to Penalties

#### **Background**

*This rule supplements the provisions in Schedule 3 to the Regulations so that where the Bank has given a notice of proposal to impose a penalty or of a proposed variation of such penalty and the authorised bank in question has made representations, the authorised bank will have the opportunity, if it chooses, to have the matter considered by an Appeal Panel before a penalty is imposed by the Bank.*

#### **The Banking Act 2009**

*Section 222 – Financial penalty*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 3 – Rules*

*Regulation 33 – Penalties*

*Schedule 3 – Imposition of Penalties*

- 11.1 This Rule 11 applies where an authorised bank has made representations within the period specified in a notice given by the Bank under schedule 3:
- a. proposing to impose a penalty (paragraph 1); or
  - b. of a proposed variation of such penalty (paragraph 2).
- 11.2 Having considered the representations, where the Bank still proposes to impose a penalty it must, before imposing the penalty:
- a. give the authorised bank notice (a “warning notice”); and
  - b. in the warning notice specify a period (of not less than 14 days from the date on which the notice is received by the authorised bank) during which the authorised bank may make an appeal application.
- 11.3 An appeal application is an application that the matter be considered by an Appeal Panel.
- 11.4 Where an authorised bank makes an appeal request before the expiry of the period specified in the warning notice (and unless it confirms that it is no longer pursuing the appeal):
- a. the Bank shall arrange for the matter to be considered by an Appeal Panel;
  - b. the Bank shall not impose the proposed penalty until the Appeal Panel has made a finding; and
  - c. where the Appeal Panel makes a finding, the Bank shall not impose a penalty inconsistent with that finding.
- 11.5 An Appeal Panel shall comprise three persons:
- a. a member of Court or officer or servant of the Bank (“the Bank member”);
  - b. two persons who are not members of Court or officers or servants of the Bank (“the external members”), respectively who are:
    - i. a person with professional experience of the business of banking or the regulation of financial institutions; and
    - ii. a person without such experience.



## The Scottish and Northern Ireland Banknote Rules 2009

- 11.6 The Bank member shall be a person who has not been involved in the decision to give the authorised bank (as the case may be) the notice of proposal, the notice of proposed variation of such penalty or the warning notice.
- 11.7 The Bank member shall chair the Appeal Panel.
- 11.8 The external members shall be appointed to act in an advisory capacity to the Bank member.
- 11.9 Once the appeal process has begun, the Bank shall arrange for a meeting of the Appeal Panel, which the authorised bank may attend.
- 11.10 At any meeting of the Appeal Panel, the chair of the panel may:
- a. give such directions as he or she considers appropriate for the fair determination of the issues; and
  - b. as appropriate, appoint times and places for further meetings of or hearings before the Appeal Panel.
- 11.11 Directions may include (but are not limited to) the following:
- a. the production of reports or other material to assist the Appeal Panel to reach a decision;
  - b. the making of written representations;
  - c. the making of oral representations at a hearing or hearings;
  - d. the attendance of witnesses at a hearing or hearings and their examination and/or cross-examination (on oath or otherwise).
- 11.12 Parties may be represented by legal advisors before the Appeal Panel.
- 11.13 At the end of the appeal process, the Bank shall, notify the authorised bank of the findings of the Appeal Panel.
- 11.14 Nothing in this rule limits the Bank's power to give a notice varying a proposal to impose a penalty under paragraph 2 of schedule 3 to the Regulations.



## STATEMENT OF PENALTY POLICY

### Penalties

#### **Background**

*This is the statement of penalty policy that is required by Schedule 3, paragraph 5 of the Regulations in respect of the penalty process and the amount of any penalty that may be imposed by the Bank.*

#### **The Banking Act 2009**

*Section 222 – Financial Penalty*

#### **The Scottish and Northern Ireland Banknote Regulations 2009**

*Regulation 34 – Penalties*

*Schedule 3 – Imposition of Penalties*

- 1 This is a statement of the policy of the Bank of England (“the Bank”) in relation to financial penalties imposed under section 222 of the Banking Act 2009 and the Scottish and Northern Ireland Banknote Regulations 2009 (the “Regulations”).
- 2 In this statement, a failure by an authorised bank to comply with any of the Regulations or the Scottish and Northern Ireland Banknote Rules 2009 (“the Rules”) is referred to as a ‘compliance failure’.
- 3 In deciding whether to impose a penalty, the Bank will follow the provisions of Schedule 3 of the Regulations (imposition of penalties) and Rule 11 (appeals relating to penalties).
- 4 The Bank may impose a financial penalty in the event of a compliance failure, subject to the limit set by the Regulations, which is based on the value of 10% of the bank’s Notes In Circulation in the previous calendar year.
- 5 Subject to that limit, the Bank has discretion about the imposition of penalties for compliance failures and it will exercise that discretion taking account, as appropriate, of the principles set out in this policy and all relevant circumstances of which it is aware.
- 6 Where repeated compliance failures have a single underlying cause, the Bank may treat those breaches as a single breach for the purposes of deciding whether a penalty is to be imposed and, if so, the amount.
- 7 A compliance failure resulting from any act or omission by an agent of an authorised bank will be treated as a failure by that bank.
- 8 The Bank’s policy is, for the purpose of financial penalties, to treat compliance failures as falling into two categories (“category 1” and “category 2”).
- 9 A category 1 compliance failure is any compliance failure that results in either of the following situations arising:
  - a. the total value of the authorised bank’s backing assets falling below the total value of notes required to be backed at the relevant time; or



## The Scottish and Northern Ireland Banknote Rules 2009

- b. the total value of the authorised bank's backing assets in the form of Bank of England notes and UK coin falling below 60% of the value of its Notes In Circulation at the relevant time.
- 10 A category 1 compliance failure could relate to circumstances such as under-declaration of total Notes In Circulation or Notes With the Potential to Enter Circulation; or from over-declaration of Excluded Notes or backing assets; or from a combination of these factors; or from any other form of reporting or other failure resulting in underbacking.
- 11 A category 2 compliance failure is any other compliance failure (i.e. compliance failures which do not result in either of the situations under category 1).

### Penalties

- 12 The maximum penalty in respect of a category 1 compliance failure is the highest of:
- a. the difference in value between the total value of the authorised bank's backing assets and the total value of notes required to be backed at the relevant time;
  - b. the difference in value between the total value of the authorised bank's backing assets in the form of Bank of England notes and UK coin and 60% of the value of its Notes In Circulation at the relevant time;
  - c. where a compliance failure has persisted over a period of time, the Bank's estimate of the maximum of any such difference.
- 13 The maximum penalty for a category 2 compliance failure is £20,000.
- 14 The Bank will not impose a penalty where a compliance failure arises solely as a result of a technical failure of the Bank's systems.

### Factors which the Bank may take into Account

- 15 The Bank may take mitigating factors into account. The maximum penalty for each compliance failure may be reduced according to the following principles which the Bank will apply, save in exceptional circumstances.
- 16 In deciding on the extent of the reduction of the maximum penalty that is appropriate in any particular case, the Bank will exercise its discretion in taking account of all relevant factors, including previous compliance failures and the Bank's assessment of the behaviour of the authorised bank in respect of that compliance failure, according to the following two stage procedure.
- 17 The first stage is that if the compliance failure was:
- a. concealed, then the maximum penalty will not be reduced;
  - b. deliberate but not concealed, then the maximum penalty may be reduced by up to 25%;
  - c. not deliberate and not concealed, but due to a failure to take reasonable care, then the maximum penalty may be reduced by up to 50%;



## The Scottish and Northern Ireland Banknote Rules 2009

- d. not deliberate and not concealed, but entirely due to a mistake or misinterpretation of fact or law, even though reasonable care had been taken to avoid such a mistake or misinterpretation, or due to a technical failure on the part of the authorised bank which could not reasonably have been avoided, then the maximum penalty may be reduced by up to 75%.
- 18 The second stage applies if an authorised bank has assisted the Bank to assess promptly the penalty due by any of (a) disclosing the compliance failure to the Bank; (b) making such a disclosure unprompted; and (c) providing high quality and relevant information.
- 19 For each of these three factors, a further reduction of up to 5% of the maximum penalty that could be applied in respect of the breach under consideration may be made.
- 20 For the purposes of the second stage:
- An authorised bank ‘discloses’ relevant information by telling the Bank about it, giving the Bank reasonable help in quantifying the extent of the compliance failure and allowing the Bank’s appointee access to the authorised bank’s records for the purpose of calculating the maximum penalty;
  - Disclosure of relevant information is ‘unprompted’ if it is made at a time when an issuing bank has no reason to believe that Bank has discovered or is about to discover the relevant information; and
  - In relation to disclosure of relevant information, ‘high quality’ is assessed with regards to timing, nature and extent.
- 21 For example, in a scenario (“Scenario A”) in which the category 2 compliance failure was not deliberate and not concealed but due to a failure to take reasonable care, then disclosed, but not unprompted (e.g. it was made in the course of an unannounced visit), and high quality information was subsequently provided, the maximum penalty could be reduced by the Bank to 40% (being a reduction of 50% plus 10%). In another scenario (“Scenario B”) where the category 2 compliance failure had originally been deliberate but was not concealed, relevant information was disclosed unprompted and was of high quality, then, applying the above factors, the maximum penalty would be reduced by the Bank to 60% (being a reduction of 25% plus 15%).

### Scenario A

Category 2 penalty	£20,000
Not deliberate or concealed	(£10,000)
Relevant information disclosed	(£1,000)
Information provided was high quality	(£1,000)
<b>Total Penalty</b>	<b>£8,000</b>

### Scenario B

Category 2 penalty	£20,000
Deliberate but not concealed	(£5,000)
Relevant information disclosed	(£1,000)
Disclosure was unprompted	(£1,000)
Information provided was high quality	(£1,000)
<b>Total Penalty</b>	<b>£12,000</b>



## The Scottish and Northern Ireland Banknote Rules 2009

- 22 Factors that the Bank is minded to take into account in the exercise of the Bank's discretion will be included in the notice of proposed penalty it gives in each case under schedule 3, paragraph 1 of the Regulations.