



Financial Services Authority

The Banking Supervision
(Fees)
Regulations 1999

**Rulebook
Amendments and Additions
Release 195**

Financial Services Authority

Amendments and Additions

Release 195

The Board made by order on 18 March 1999, the Banking Supervision (Fees) Regulations 1999. These regulations come into operation on 1 April 1999.

This instrument is made following proposals set out in Consultation Paper 18: Fees 1999-2000.

Filing instructions

This release should be filed in Chapter VIII of Volume 2 of the Rulebook.

Release 185 may now be discarded.

The Financial Services Authority
26 March 1999

The Banking Supervision (Fees) Regulations 1999

The Financial Services Authority (the 'Authority') in exercise of the powers conferred upon it by paragraph 1 of Schedule 6 to the Bank of England Act 1998 hereby makes the following regulations.

Part 1: General matters

1.01 Citation and commencement

These Regulations, the 'Banking Supervision (Fees) Regulations 1999', are made on 18 March 1999 and shall come into force on 1 April 1999.

1.02 Period of application

These Regulations prescribe the application and periodical fees payable by banks and by applicants for authorisation by the Authority under the Banking Act (as provided for in paragraph 1 of Schedule 6 to the Bank of England Act) for the financial year beginning on 1 April 1999 and ending on 31 March 2000.

1.03 Interpretation

These Regulations are to be interpreted in accordance with the Glossary in Appendix 1.

1.04 Revocation

The Banking Supervision (Fees) Regulations 1998 are hereby revoked.

Part 2: Fees payable by banks

2.01 Application fees

An applicant for authorisation by the Authority under the Banking Act must pay a fee of £25,000.

2.02 Payment of periodical fees by authorised institutions

An authorised institution must pay a periodical fee in respect of the current financial year of an amount equal to the greater of:

- a. an amount calculated by multiplying its fee base for the current financial year by 0.000051; and
- b. £10,000.

2.03 Payment of periodical fees by 2BCD branches

A 2BCD branch must pay a periodical fee in respect of the current financial year of an amount equal to the greater of:

- a. an amount calculated by multiplying its fee base for the current financial year by 0.000017; and
- b. £10,000.

Part 3: The fee base

3.01 Basis for calculating fee base

1. A bank's fee base for the current financial year shall
 - a. (in the case of a monthly reporting institution) be the average of the bank's modified eligible liabilities for the final three months of 1998;
 - b. (in the case of a quarterly reporting institution) be the bank's modified eligible liabilities for December 1998.
2. The fee base of a bank to which Part 2 of Appendix 2 (non-resident office offset) applies shall be adjusted in accordance with that Part of that Appendix.

3.02 Calculation of modified eligible liabilities

Modified eligible liabilities for a month shall be calculated by the formula in Part 1 of Appendix 2.

3.03 Calculation of fee base using Form BT

1. Save as hereafter provided, the Authority shall calculate the periodical fee payable by a bank for the current financial year by reference to the Forms BT submitted by that bank to the Bank for the months of October, November and December 1998 (in the case of a monthly reporting institution) or for the month of December 1998 (in the case of a quarterly reporting institution) and in addition, where relevant, its supplemental Form BT.
2. If a person became a bank before 1 January 1999 but was not required by the Bank to complete a Form BT for December 1998, the periodical fee payable by that bank for the current financial year shall be £10,000.
3. If the figures for two or more banks were consolidated for the purpose of reporting on Form BT for the period October - December 1998, or as the case may be, December 1998,
 - a. the periodical fee payable by one of those banks for the current financial year shall be calculated in accordance with Part 2 and its modified eligible liabilities shall be calculated by reference to the consolidated Form or Forms BT for the relevant period;
 - b. the other bank or, as the case may be, each of the other banks shall pay a periodical fee for the current financial year of £10,000.

The bank whose fee is to be calculated under a. shall be the one that is the parent undertaking (as defined in the Companies Act 1985) of the other or others or, if none of the banks fulfil that criterion, the one chosen by the Authority.

4. If a bank has, in respect of a month the modified eligible liabilities for which are used in the calculation of its fee base for the current financial year, submitted separate Forms BT for different parts of its business or operations, its modified eligible liabilities for that month shall be calculated by the Authority by consolidating all such Forms BT (whether on a line-by-line basis or in such other way as the Authority may consider appropriate).

3.04 Amendments to figures

Any changes to the information contained in a Form BT or supplementary Form BT which are made following the submission of that form shall be taken into consideration for the purpose of calculating a periodical fee, but only if such changes were notified to the Authority on or before 26 January 1999 (in the case of Forms BT) or 29 January 1999 (in the case of supplementary Forms BT).

Part 4: Fees: special cases

4.01 Reduction, remission or return of fees

1. Where it appears to the Authority that, owing to the exceptional circumstances of the particular case, the payment of any fee would be inequitable, the Authority may reduce or remit all or part of the fee in question which would otherwise be payable.
2. Where it appears to the Authority that, owing to the exceptional circumstances of a particular case, the retention by the Authority of a fee which has been paid would be inequitable, the Authority may refund all or part of the fee.
3. Sub-paragraphs 1 and 2 do not apply to any application fee.
4. No application fee will be returned to the applicant if the application is refused or withdrawn.
5. Sub-paragraphs 1 and 2 do not apply to a case where the circumstances referred to in those sub-paragraphs are ones that fall under Appendix 3.

4.02 Periodical fees for persons becoming banks on or after 1 January 1999

Appendix 3 (which provides for modifications to these Regulations as they apply to persons that become or became banks on or after 1 January 1999) shall have effect.

Part 5: Fees: general

5.01 Basis of periodical fees

A person shall pay a periodical fee in respect of the current financial year if it is an authorised institution or, as the case may be, a 2BCD branch during the whole or any part of the year.

5.02 Payment date

1. A periodical fee payable by a person under these Regulations is payable in advance within 28 days from the date of the relevant invoice sent by the Authority.
2. An application fee payable must accompany the application for authorisation under the Banking Act.

5.03 Payments

All fees are payable in sterling and in a single instalment.

5.04 Rounding

Any average figure for a bank's actual or estimated modified eligible liabilities for a number of months, any percentage or fractional reduction required by Part 1 of Appendix 2 and any figure calculated for a bank's fee base shall, if not a whole multiple of £1,000, be rounded downwards to the nearest whole multiple of £1,000. Any periodical fee which would otherwise be expressed in pounds and pence shall be rounded upwards to the nearest pound.

5.05 Persons ceasing to be banks

Where, at the date by which payment has to be made or on which the amount of the fee is notified or invoiced, the person concerned is no longer a bank, a fee due under these Regulations continues to be due and payable in full.

Appendix 1: Glossary

The following expressions are defined for the purposes of these Regulations as follows:

'2BCD branch' means a European authorised institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits or other repayable funds from the public as referred to in paragraph 1 of Schedule 6 to the Bank of England Act;

'Appendix' or **'Part'** refers to an Appendix to or Part of these Regulations;

'authorised' and **'institution'** have the same meaning as in the Banking Act;

'Bank' means the Bank of England;

'bank' means an authorised institution or 2BCD branch;

'Banking Act' means the Banking Act 1987;

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

'current financial year' means the year beginning on 1 April 1999 and ending on 31 March 2000;

'European authorised institution' has the same meaning as in Schedule 6 to the Bank of England Act;

'fee base' is defined in Part 3;

'Form BT' means the Bank's balance sheet return (Form BT) issued pursuant to section 17 of the Bank of England Act;

'modified eligible liabilities' is defined in Part 3;

'monthly reporting institution' means a bank that has submitted Forms BT to the Bank for the months of October, November and December 1998;

'periodical fee' means a fee payable pursuant to regulation 2.02 or 2.03 (including any such fee adjusted under Part 4 or Appendix 3) and any fee expressed to be a periodical fee by Part 3 or 4 or Appendix 3;

'quarterly reporting institution' means a bank that is not a monthly reporting institution;

'supplemental Form BT' means the supplementary statistical return relating to net liabilities to non-resident offices of banks in respect of the period October - December 1998 which was issued by the Authority and, where relevant, returned by a bank, in January 1999.

Appendix 2: Modified eligible liabilities and non-resident office offset

Part 1: Modified eligible liabilities

Liabilities

In sterling:

£2 + £3 + £4 + £5A + £5B + £6B + £6C + £6D + £6E + £6F + £6G
+ £6H + £6J + £7B + £7C + £7D + £7E + £7F + £7G + £7H + £7J
+ £8 + £10 + 60% of £11A + £44

plus

In foreign currency, one-third of:

E2 + E3 + E4 + E5A + E5B + E6B + E6C + E6D + E6E + E6F + E6G
+ E6H + E6J + E7B + E7C + E7D + E7E + E7F + E7G + E7H + E7J
+ E8 + E10 + 60% of E11A + E44
+ C2 + C3 + C4 + C5A + C5B + C6B + C6C + C6D + C6E + C6F
+ C6G + C6H + C6J + C7B + C7C + C7D + C7E + C7F + C7G + C7H
+ C7J + C8 + C10 + 60% of C11A

less

Assets

In sterling:

£21B + 60% of £22A + £23D + £23E + £23F + £30A + £30B + £31A
+ £31B + £32AA

plus

In foreign currency, one-third of:

E21B + 60% of E22A + E23D + E23E + E23F + E30A + E30B + E31A
+ E31B + E32AA
+ C21B + 60% of C22A + C23D + C23E + C23F + C30A + C30B
+ C31A + C31B + C32AA

Notes:

- 1 All references in the above formula are to entries on Form BT.
- 2 'E' refers to assets and liabilities denominated in euro (as referred to in column 2 of Form BT) and 'C' refers to assets and liabilities denominated in currencies other than sterling and euro (as referred to in column 3 of Form BT). In accordance with Form BT, assets and liabilities in currencies other than sterling are to be recorded in sterling.

Part 2: Non-resident office offset

Provided that the conditions and criteria (including those relating to the time by which a supplemental Form BT must have been received by the Authority) set out by the Authority in the supplemental Form BT (and accompanying letter) were duly satisfied, the fee base of a bank that has submitted a supplemental Form BT to the Authority in January 1999 shall be adjusted by deducting from the amount calculated in accordance with regulation 3.01.a. or 3.01.b. the amount obtained by deducting from item 'c' in the supplemental Form BT the sum of £1,000 million. Supplemental Forms BT must have been completed in accordance with the instructions therein and the accompanying letter and, so far as applicable, in accordance with the requirements for completing Forms BT. Each item in line 45D of a supplemental Form BT shall, if it would otherwise have been a negative number, be zero.

Appendix 3: Persons that become or became banks after 1 January 1999

1.01 Introduction

This Appendix applies to persons that become or became banks on or after 1 January 1999. References in this Appendix to paragraphs or sub-paragraphs are, unless the context otherwise requires, to paragraphs or sub-paragraphs of this Appendix.

2.01 Calculation of fee base for persons becoming banks on or after 1 January 1999

1. Sub-paragraph 2 below applies to a person that first became or becomes a bank on or after 1 January 1999 but applies to a 2BCD branch only if its periodical fee is being calculated under paragraph 3.01.2.
2. The fee base of a person to which this sub-paragraph applies shall be the average of the amount of its modified eligible liabilities as at the end of each of the twelve months following its becoming a bank (beginning with the month following the month in which it became a bank), whether actual or as estimated by the Authority. An applicant for authorisation under the Banking Act is required, as part of the process of applying for authorisation, to submit to the Authority its own estimate of such amounts and a 2BCD branch which also elects for treatment under paragraph 3.01.2 must supply the same. The Authority may fix the time by when such or any further estimates must be submitted and the form and manner in which they are to be drawn up.

3.01 Periodical fees for newly passported 2BCD branches

1. Except where the 2BCD branch elects to be treated under sub-paragraph 2 below, the periodical fee in respect of the current financial year payable by a 2BCD branch to which this Appendix applies shall be of an amount equal to the greater of:
 - a. such amount as the Authority considers appropriate to put, so far as reasonably practicable, that 2BCD branch on a basis of parity with those 2BCD branches which satisfy the following conditions –
 - (i) they pay periodical fees for the current financial year calculated in accordance with regulation 2.03 or sub-paragraph 2 below; and

- (ii) the businesses of their UK branches appear to the Authority to be (among the population of 2BCD branches satisfying condition (i)) the most similar to the business of the 2BCD branch in question, taking into account (so far as known to the Authority and so far as relevant) the plans of that 2BCD branch, the type of business conducted or to be conducted, the size and extent of the business of the branch and any other factor that the Authority considers to be relevant; and
 - b. the amount specified in regulation 2.03.b.
2. A 2BCD branch to which this Appendix applies may, by notice in writing to the Authority (which notice must be received by the Authority by 14 April 1999 or if later, 14 days after that 2BCD branch first became a 2BCD branch) irrevocably elect that the periodical fee payable by it under these regulations shall be calculated in accordance with regulation 2.03 and paragraph 2.01. The period for making that election may, in the absolute discretion of the Authority, be extended.

4.01 Periodical fees for persons becoming banks on or after 1 April 1999

1. The periodical fee for the current financial year payable by a person that becomes a bank during the current financial year shall be calculated in accordance with this Appendix and these Regulations provided that:
- a. (in the case of an authorised institution or of a 2BCD branch whose periodical fee is being calculated in accordance with paragraph 3.01.2 above) one of the adjustments provided for in sub-paragraph 2 below may apply;
 - b. (in the case of a 2BCD branch whose periodical fee is being calculated in accordance with paragraph 3.01.1 above) the amount in paragraph 3.01.1.a. above shall be calculated taking into account the fact that that 2BCD branch will be a 2BCD branch for part only of the current financial year.
2. The adjustments referred to above are
- a. the amount derived from regulation 2.02.a. or, as the case may be, 2.03.a. shall be reduced by $\frac{1}{12}$ for each complete calendar month in the period beginning on 1 April 1999 and ending on the date on which the person concerned first became a bank;

- b. (in the case of a person that first becomes a bank after 31 December 1999) the amount provided for by regulations 2.02.b. or 2.03.b. shall be reduced by 50%.

5.01 Adjustments in the calculation of fee base and modified eligible liabilities

1. If the fee base of a bank is being calculated under paragraph 2.01 and if that bank satisfies the requirements of Part 2 of Appendix 2 (as modified in accordance with the following provisions of this sub-paragraph, but excluding the requirements of Part 2 of Appendix 2 relating to the time by when supplemental Forms BT must have been submitted to the Authority), it may elect that such calculation shall include the adjustment referred to in that Part of that Appendix. However in such a case item 'c' will be calculated by taking the average of the month-end figures for each of the twelve months referred to in paragraph 2.01.2 rather than of those for any period provided for by the supplemental Forms BT. The other items provided for by the supplemental Forms BT shall be calculated accordingly. Such election shall be (or must have been) made by notice in writing to the Authority, which notice must be (or must have been) received by the Authority prior to the date on which that bank first became a bank (or such later time as the Authority may, in its absolute discretion, permit). A bank that became a bank in the first quarter of 1999 is entitled to have its fee base calculated using the adjustment referred to in this paragraph 5.01.1 but only if the estimates referred to in paragraph 2.01.2 have been prepared including that adjustment and the other provisions of this paragraph 5.01.1 have been satisfied. In such a case references above to election may include any expression of wish communicated to the Authority in or before that quarter.
2. The calculation or estimation of the modified eligible liabilities of a bank and the calculation provided for by sub-paragraph 1 above for periods falling after December 1998 shall be on the basis of the Bank's definitions of the items constituting modified eligible liabilities and the Bank's requirements for completing Forms BT applicable to Forms BT for December 1998 or, as the case may be, the definitions and requirements for completing supplemental Forms BT as set out by the Authority in the supplemental Form BT and the accompanying letter referred to in Part 2 of Appendix 2.