

SCHEDULE 3

Regulation 33(2)

Imposition of penalties

Notice of proposal

1.—(1) Before imposing a penalty under regulation 33 on an authorised bank, the Bank of England must give written notice to the bank—

- (a) stating that it proposes to impose the penalty and the amount of the proposed penalty;
- (b) setting out the provision of the Regulations or the rules which the Bank of England considers has been breached;
- (c) specifying the acts or omissions which, in the Bank of England's opinion, constitute the breach and any other facts which, in the Bank of England's opinion, justify the imposition of the penalty and its amount;
- (d) specifying the date by which the Bank of England proposes to require the penalty to be paid to it;
- (e) specifying the period (of not less than 30 days from the date on which the notice is received by the authorised bank) within which the bank may make representations regarding the proposed penalty.

(2) The Bank of England must not give notice under sub-paragraph (1) in respect of a contravention of a provision of these Regulations or the rules more than two years after the Bank of England first had knowledge of the facts giving rise to the breach.

(3) The Bank of England must consider any representations made during the period mentioned in sub-paragraph (1)(e).

Variation of proposal

2.—(1) The Bank of England may vary a proposal to impose a penalty only if—

- (a) the authorised bank consents to the variation,
- (b) the variation consists of a reduction in the amount of the proposed penalty or a deferral of the date by which the Bank of England proposes to require the penalty to be paid, or
- (c) the Bank of England gives written notice to the authorised bank setting out the proposed variation and the reasons for it.

(2) Where the Bank of England gives notice under sub-paragraph (1)(c), the notice must also specify the period (of not less than 30 days from the date the notice is received by the authorised bank) within which the bank may make representations regarding the proposed variation.

(3) The Bank of England must consider any representations made during the period mentioned in sub-paragraph (2).

Decision notice

3.—(1) As soon as practicable after imposing a penalty, the Bank of England must give written notice to the authorised bank—

- (a) stating that it has imposed the penalty and the amount of the penalty;
- (b) setting out the provision of the Regulations or the rules which the Bank of England is satisfied has been breached;

- (c) specifying the acts or omissions which, in the Bank of England’s opinion, constitute the breach and any other facts which, in the Bank of England’s opinion, justify the imposition of the penalty and its amount;
- (d) specifying the manner in which, and the date by which, the Bank of England requires the penalty to be paid.

(2) The date mentioned in sub-paragraph (1)(d) must be at least 3 months after the date on which the notice is given to the authorised bank.

Maximum penalty

4.—(1) The total amount of the penalties imposed on an authorised bank by the Bank of England in a calendar year must not exceed 10% of the mean average value of the estimated amount of the bank’s banknotes in circulation at any time in the previous calendar year.

(2) For the purposes of paragraph (1), the Bank of England must estimate the amount of a bank’s banknotes in circulation at any time by reference to—

- (a) information received from Her Majesty’s Revenue and Customs under section 218(3) of the Act (information); or
- (b) information or a report provided by the bank in accordance with rules made under regulation 13, 14 or 15.

Statement of policy on penalties

5. The Bank of England must publish a statement of policy, with which it must comply, in respect of—

- (a) the process it will follow when it imposes a penalty under these Regulations; and
- (b) the amount of any such penalty.

Service of notices

6.—(1) The Bank of England may send a notice to the authorised bank by post.

(2) Where the Bank of England has sent a notice by pre-paid post to the registered office of the authorised bank, it shall be deemed to have been received by the bank on the second business day after posting unless the bank can prove that it did not receive the notice on that day.

(3) In this paragraph, “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(1) in any part of the United Kingdom.

(1) 1971 c. 80.