

**CODE OF CONDUCT FOR THE
ADVERTISING OF INTEREST BEARING
ACCOUNTS**

**GUIDANCE FOR BANKS AND
BUILDING SOCIETIES**

**British Bankers' Association
The Building Societies Association
April 2003**

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Introduction

The Code of Conduct for the Advertising of Interest Bearing Accounts (the Code) has been in place since 1985. This new version, dated April 2003, significantly revises and updates the Code's requirements. The Code is published jointly by the British Bankers' Association and The Building Societies Association and has the support of the Finance and Leasing Association. It is recognised by the Financial Services Authority and other bodies, such as the Consumers' Association and the Advertising Standards Authority (ASA), have also been consulted on its content.

This guidance is designed to help with the implementation of the Code and to explain in more detail the thinking and practical application of the requirements. It sets out the provisions of the Code (*in italics*) and, where necessary, each provision is followed by some background issues and the BBA/ BSA interpretation. This guidance is not intended to be a detailed rulebook on how to comply with the Code; it merely sets out the BBA/BSA interpretation of it. Banks and societies are free to reach their own conclusions on interpretation and, for that reason, this document is intended primarily for the use of banks and building societies and their professional advisers. However, a copy of this guidance has been sent to the Banking Code Standards Board, which is responsible for monitoring compliance with the Code.

General

1. The terms of this Code apply to the advertising of all interest bearing accounts maintained within the United Kingdom by banks and building societies. For the purposes of this Code the term "advertisement" includes press and broadcast advertisements, direct marketing, window displays, posters, brochures, leaflets, advertisements delivered by electronic means (eg mobile communications; the Internet) and automated teller machine displays. The Code does not apply to generic advertising or promotional material which does not advertise a specific interest-bearing account or accounts.

The requirements of the Code are designed to apply as widely as possible, to everything that could be interpreted to be an advertisement designed to sell a **specific** service or product. However, the Code does **not** apply to simple promotions, designed simply to raise brand awareness (for example, promotional gifts etc) or which merely list products, for example "we offer a range of products including an instant access account and a 30 day notice account: ask for details". Advertisements for accounts to be maintained outside the UK, including for example, the Channel Islands or the Isle of Man, do not fall within the scope

of the Code, provided the advertisement makes it clear that they are to be maintained outside the UK. 'Interest bearing accounts' includes current accounts which pay interest on credit balances.

2. *Advertisements must comply with the spirit and letter of this Code, the British Code of Advertising, Sales Promotion and Direct Marketing, the Radio Authority Advertising Code, the Independent Television Commission Code on Advertising Standards and Practice, the FSA Handbook and with all relevant legislation.*

This merely confirms that the Code must be read and applied alongside the other codes and regulations, which set down general advertising standards. Advertising must also comply with the **spirit** of the Code to ensure that the intentions behind the Code are complied with.

3. *Advertisers of interest bearing accounts must take care to inform potential customers of the nature of any commitment, including the type of deposit (eg whether it is a notice account or instant access) into which they may enter as a result of responding to an advertisement. Advertisers should ensure that all advertising and promotional material is clear, fair, reasonable and not misleading.*

The requirement to inform customers of the nature of the commitment applies to all advertisements. However, more detail is required where customers are being invited to deposit money via a direct response advertisement. (See sections 15 to 17 below) For other types of advertising, information on the nature of the commitment can be less detailed since *The Banking Code*¹ requires more detailed information to be given before the customer opens the account (section 3 of the March 2003 edition of *The Banking Code* refers).

The 14 day cooling-off period in *The Banking Code* should also be borne in mind (section 7.1 of the March 2003 edition refers) although the cooling off period need not be referred to in the advertisement, unless it is a direct response advertisement.

The requirement for advertising to be clear, fair, reasonable and not misleading is consistent with *The Banking Code* (section 8.1 of the March 2003 edition refers).

4. *The registered or business name (and - in the case of press advertisements, direct marketing, brochures and leaflets - the postal address) of the deposit-taking institution must be clearly stated.*

This allows those institutions which do not use their registered name in advertising some flexibility. NB for web-based advertisements it is not sufficient to give an email or website address (the EU ECommerce directive, ref

¹ All references in this code to The Banking Code apply equally to the Business Banking Code.

2000/31/EC, requires the full postal address to be given). This does not apply to Web-based banner advertisements which give a 'click-through' link to the advertiser's website and, as such, may be seen as an extension of the advertiser's website.

5. *In advertisements in which an agent advertises deposit-taking facilities on behalf of a principal, or a principal indicates that it will accept deposits through an agent, it must be made clear which body is the agent and which is the principal.*

This should ensure that, when dealing through an agent the customer knows exactly the relationship and terms of business he is dealing with and, therefore, who is providing any advice given.

6. *The explanatory phrases and statements required by this Code must be clearly audible or legible as appropriate.*

The Radio Authority and the Independent Television Commission issue guidelines regarding legibility and audibility. The ASA's views on the use of small print should also be borne in mind. Their website, www.asa.org.uk, contains details of relevant adjudications.

Statement of Interest Rates

7. *Where interest rates are advertised, these must be described as follows:*
 - (a) *W% gross*
 - (b) *X% net*
 - (c) *Y% tax free and*
 - (d) *Z% Annual Equivalent Rate ("AER")*

where:

- (a) *is the contractual rate of interest payable before the deduction of income tax at the rate specified by law (the "specified rate"); an explanatory phrase conveying this meaning must be used in conjunction with this expression.*
- (b) *is the rate of interest which would be payable after allowing for the deduction of income tax at the specified rate; an explanatory phrase conveying this meaning must be used in conjunction with this expression. The net rate may only be quoted where the gross rate is also given. Where both gross and net rates are given, only the net rate need be defined, provided the meaning of gross rate can be inferred.*
- (c) *is the contractual rate of interest payable where interest is exempt from income tax. An explanatory phrase conveying this meaning must*

be used in conjunction with this expression.

- (d) *is a notional rate which illustrates the contractual interest rate (excluding any bonus payable) as if paid and compounded on an annual basis. An explanatory phrase conveying this meaning must be used in conjunction with this expression. Any assumptions made in calculating the rate should be stated.*

In the case of a table or list of rates, the words "gross", "net", "tax free" and "AER" as appropriate need not appear after each rate. However, it must be clear which term applies to which rate, for example, by the use of column headings or footnotes.

For the avoidance of doubt, it is worth emphasising that the contractual gross rate must be stated if the net rate is quoted, so that (b) can be used **only** where (a) is stated. Guidance on the calculation of the Annual Equivalent Rate (AER) is given in the Appendix to the Code at the end of this guidance. The AER should be quoted, in respect of the gross rate only, in **every** advertisement where an interest rate is quoted. This means that **all** advertisements include one rate which is capable of comparison across all advertisements, regardless of product provider and how interest is calculated and paid. The AER is a truly reflective rate, taking into account the frequency with which the product has interest paid or compounded. So, for example, if two products pay the same contractual rate of interest but one pays or compounds interest more frequently than the other, the account which pays or compounds interest more frequently will have a higher AER.

It is suggested that wording along the following lines should be used (for example, in leaflets, supporting wording of advertisements etc) to explain the AER -

"AER stands for Annual Equivalent Rate and illustrates what the interest rate would be if interest was paid and compounded once each year. [As every advertisement for a savings product which quotes an interest rate will contain an AER, you will be able to compare more easily what return you can expect from your savings over time.]"

(The first sentence could be used alone to cut down length). The explanation of the AER, 'gross', 'net' or 'tax free' need not be included in television or radio advertisements.

The final paragraph of this section puts beyond doubt the fact that any advertisement listing a series of rates, for example, when comparing competitors' products, need only ensure that the appropriate term is clear. This applies the provisions of general notifications of rates (see Section 13) to advertisements.

Advertisements which do not quote a **specific** rate of interest, for example, which simply state that the rate will be x% below base rate, do **not** need to quote

an AER. Specific guidance on the calculation of the AER is set out in the Appendix.

As far as money market deposits are concerned, it is recognised that these are largely traded in the corporate, wholesale and inter-bank markets, and it is not intended to extend the Code to those areas.

However, any advertisement for money market deposits (including time deposits) aimed at people who may not be familiar with the money markets, and which quotes (ie offers) a specific rate, requires an AER to be calculated and quoted.

8. *Advertisements which quote a rate of interest must quote the Annual Equivalent Rate and the contractual rate. No rate or return shall be given greater prominence than the AER. For illustrative purposes, advertisements may also include an AER including conditional bonuses. However, this rate must be given less prominence than the contractual rate and the true AER, and must be described as "AER including conditional bonuses". Where contractual rates are quoted on the basis of other than a 12 month period, this must be clearly stated. Where an interest rate is calculated on a basis other than actual/365, the basis should be stated and the AER should nonetheless be calculated on an actual/365 basis.*

Actual/365' means that interest is calculated by taking the balance multiplied by the annual interest rate divided by 100, multiplied by the number of calendar days that the balance is held divided by 365 in a normal year or by 365 or 366 days in a leap year. If making an adjustment for AER purposes, the divisor should be 365 in all years.

Because the AER will be the one rate that customers will be able to use to compare all products, it must be given **at least equal** prominence as the contractual rate (ie the gross or tax free rate). However, if the AER is exactly the same as the contractual rate, there is no need to quote the same rate -it is enough to state, for example, "5% gross/AER". Conditional bonuses (paid, for example, if the customer makes only a certain number of withdrawals each year) can only be included in the AER if the AER without the bonuses is also quoted and given greater prominence.

9. *Advertisements which quote a rate of interest must contain the following specific information -*
 - (a) *the frequency of payment of interest;*
 - (b) *either -*
 - *a statement that the contractual rate of interest is fixed for any specified term; or*
 - *a statement that the interest rate is subject to variation;*

- (c) *the minimum amount which must be deposited to achieve the advertised rate of interest.*

This provides that, if a rate of interest is quoted in an advertisement, the advertisement must also state how often interest will be paid (for example, monthly, annually or after five years); whether the interest is fixed or variable (if fixed, the term must be stated); and any minimum deposit necessary. The Code does not require this information to be contained in any particular part of the advertisement. However, institutions should take care to ensure, in respect of printed advertisements, that any footnotes are clear and legible and meet the Advertising Standards Authority's legibility requirements.

10. *Advertisements should not quote a return which includes all or part of the original investment.*

It is not acceptable for advertisements to state, for example, "110% return" where this means that the customer gets their original investment back with a 10% return. This is a new provision in the Code and brings it into line with ASA requirements and FSA rules [FSA rule 3.8.7 (G) (5) refers].

11. (a) *Accounts which advertise a bonus rate of interest, payable for a specific period, must ensure that the duration of the bonus is clearly stated in the main part of the advertisement*
- (b) *The terms which apply to the payment of any other bonus must be clearly stated.*

This provision ensures that bonuses are explained clearly. The duration of that bonus rate must be clearly stated in the **main** part of the advertisement, and not in the footnotes. Similarly, the terms which apply to the payment of a bonus (for example, bonus of 2% paid if no withdrawals are made during the year) must be stated clearly, although not necessarily in the main part of the advertisement.

If the level of bonus payable may be subject to change this should be spelt out clearly in the main part of the advertisement.

If a bonus rate is payable until a fixed date (for example, "payable until 1 December 2003" and the product is launched on 1 May 2003), the AER will change over the period. The AER at the time of the product launch will be higher than that towards the end of the bonus period. This gives rise to scope for the AER to be misleading if it is not recalculated on a regular basis. It is not, therefore, enough for advertisements simply to state in the supporting wording the date of calculation of the AER. Instead, AERs on such accounts should be recalculated on a **monthly** basis. This means that posters and leaflets, as well as newspaper advertisements etc, need to be changed monthly, if such accounts are being advertised.

12. *Advertisements quoting a rate of interest or return which are intended for*

media or direct mail must contain a suitable qualification, such as "rates correct at date of going to press", and must state that date.

This acknowledges that some advertisements, eg for magazines, have quite long copy dates and that there is the chance that rates could change in the meantime. The requirement applies to the advertiser's own interest rate and to competitors' interest rates where these are quoted for comparative purposes.

□ The date the information was correct should be quoted eg 'all financial information was correct at x/y/z (date)'.

Notices of Rates

13. *A general notice to customers of rates need only comply with paragraphs 7 and 8 of the Code. In the case of such notices or lists, the words "gross", "net", "tax free" and "AER" as appropriate need not appear after each rate. However, it must be clear from the whole of the notice or list which term applies to which rate, for example, by the use of column headings or footnotes.*

This means that general notices of rates, for example, as required by section 4.6 of *The Banking Code*, March 2003 edition and which generally are not inherently designed to sell products but to inform customers of rates, need comply only with paragraphs 7 and 8 of the Code.

"Instant Access"

- 14(a) *An account may not be described as having instant access or "immediate withdrawal" or any similar statement where withdrawal must be other than by cash.*
- (b) *Any conditions attached to 'instant' or 'immediate' (or any other similar statement) withdrawal, for example if-*
- *the number of withdrawals that may be made without transactional charges, loss of interest, loss of bonus or any similar charge being made, is limited*
 - *the amount of cash that can be withdrawn in a transaction is limited by the account*
- should be clearly stated in the main part of the advertisement.*

These provisions were added to the Code as a result of the Advertising Standards Authority's decision regarding the use of the words "instant access".

"Instant access" and any similar wording should be used only where it is **possible** to make **cash** withdrawals (without charge), whether in a branch or via an ATM. Accounts which do not offer this facility should not be described as "instant access". Accounts which themselves do not have the facility to withdraw cash, but which allow immediate real-time transfers to a side account from which

cash may be withdrawn are also acceptable. The BBA and BSA have both recommended that, to avoid confusion, accounts should not have "instant access" in their titles if they do not actually offer instant access.

However, it is possible to describe an account as having "instant access", where the number of withdrawals that may be made is limited for good reason. For example, it would be within the spirit of 14 (b) to limit the number of withdrawals on a savings account to ensure that it was not used as a money transmission account, but it would not be appropriate to limit withdrawals too tightly. The ASA has indicated that each case would be looked at on its own merits. Any restrictions and charges (howsoever calculated and described) must be stated in the main part of the advertisement and not in the supporting text.

If the terms of the product limit the amount of cash that can be withdrawn in a single transaction, that must be clearly stated in the main part of the advert, together with the amount of the limit. Again, as with paragraph 14(a), this refers to a particular limitation on the product itself, and not a general floor limit imposed by the institution across the board, for example, for security or other practical reasons.

Direct Response

15. *Advertisements which invite deposits by immediate response (eg by coupon or website application form) must*

- (a) Include the full terms and conditions or state that they are available on request;*
- (b) Clearly state in the part of the advertisement to be retained by the consumer a full postal address at which the advertiser can be contacted during normal business hours and the description and details of the advertised product including the information required by this Code.*

This section applies only to direct response advertisements. For other advertisements, the information required under Section 15 (a) is not required to be given in the advertisement but should be provided to the customer prior to account opening, under Section 3 of *The Banking Code* (March 2003 edition). NB the ASA requires a full company name and full geographical address to be given in the part of the advertisement retained by the consumer. A post office-box address is unlikely to be acceptable to them.

16. *In direct response advertisements a clear indication of the type of deposit must be given by including the following –*

- (a) A clear statement of the terms (if any) for any withdrawal or transfer, including -*

- *the period of any notice required;*
- *the amount of any charges which may be payable;*
- *any limitation which the account imposes on the amount which may be withdrawn or transferred in a single transaction;*
- *any limit on the number of withdrawals permitted.*

This means that every direct response advertisement must contain details about any notice period required before a withdrawal can be made, any charges that might be payable (for example, if a charge is made for making a withdrawal over the counter), and any maximum or minimum withdrawal/transfer applied to that particular deposit, for example, a minimum withdrawal of £100 or a maximum of £5,000. This information must be clear, but does not necessarily have to be in the main part of the advertisement.

- (b) *Where payments are made other than by cash (for example, by cheque or bank giro credit to another account), this should be made clear, as should the number of working days payment will normally take.*

Again, although the information must be clear, it does not have to be included in the main part of the advertisement.

- (c) *For accounts which do not allow withdrawals even after notice, without forfeiting interest or bonuses or making any similar charge, the text of the main part of the advertisement must include a statement indicating that, if a withdrawal is made, the stated interest rate or return will not be achieved.*

If, to make a withdrawal from the account, any form of charge, however calculated or specified (whether a set fee, a loss of interest or a loss of a conditional bonus payment), is made, that must be spelt out clearly in the main part of the advertisement. The effect of the charge should be reflected in the AER (see section A4 of the Appendix).

- (d) *The advertisement must state that compensation may be available from the Financial Services Compensation Scheme.*

Direct Response advertising of Cash Mini or TESSA-only Individual Savings Accounts

17. Direct response advertisements for cash ISAs must also contain the following information:

- (a) *If the ISA is stated as satisfying the CAT standards (the minimum voluntary benchmark prescribed by HM Treasury) a comparison of the account against the CAT standards. Or*
- (b) *If the ISA is not stated as satisfying the CAT standards, a statement making this clear; (c) a statement making it clear that the ISA is a mini or a*

TESSA-only ISA agreement and, and an explanation of the differences between this and a maxi ISA.

- (d) The minimum amount needed to open the account.*
- (e) The maximum yearly deposit (not applicable for a TESSA-only ISA).*
- (f) The interest rate earned and if and how it might vary.*
- (g) How the interest will be calculated (e.g. daily, monthly or annually and when it will be added to the account).*
- (h) How to make withdrawals and any limits.*
- (i) The arrangements for handling complaints.*
- (j) That the favourable tax treatment may not be maintained (institutions may wish to add that it is the government, not the institution, which is responsible for the tax treatment).*
- (k) A warning that a mini and maxi ISA may not both be opened in the same tax year and that by opening a cash mini ISA, the customer will be limiting the amount of tax-free savings in equities that they can make, if they do not already have a mini stocks and shares or insurance ISA in that tax year (not applicable for a TESSA-only ISA). And*
- (l) The cooling-off period which will apply when the account is opened (see section 7.1 of The Banking Code, March 2003 edition).*

These requirements were introduced to ensure consistency in standards as between the advertising of cash ISAs under the Advertising Code and under the rules of the FSA. FSA Rule COB 3.9.8 R of the FSA's Conduct of Business Handbook provides a 'carve out' for banks and building societies which adhere to this Code and *The Banking Code*.

