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Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

13 May 1985

Andrew Turnbull Esq
10 Downing Street
LONDON
SW1

Dear Andrew,

DISCLOSURE AND GILTS

done ✓
The Chancellor minuted the Prime Minister on 9 May attaching a draft Treasury notice and paragraph for the gilts prospectus. Further discussion with the lawyers has led to some minor changes to the notes for editors attached to the draft notice. I should therefore be grateful if you would substitute the attached redraft for the pages now in your possession. *with kt*

The minute itself stands.

*Yours ever
Rachel*

RACHEL LOMAX
Principal Private Secretary

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Prime MinisterA. cc 1/2
NB - Secret attachment

Treasury Chambers, Parliament Street, SW1P 3AG
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PRIME MINISTER

DISCLOSURE AND GILTS

We had a word about this on Tuesday evening. I thought it might be helpful if I set out the position as I see it.

2. You will recall that I was obliged to arrange for the decisions we took on bond-washing late on 27 February to be announced before the markets opened the following morning. This was on the basis of advice that sales of gilts by the Bank between the time of the decision and its announcement might be open to legal challenge on grounds of non-disclosure of a material fact. The need for a rapid announcement ahead of the Budget caused a great deal of inconvenience. You took the view that for the future we should seek to establish a position in which the Government was able to take tax decisions and announce them in a sensible manner. I wholeheartedly agree.

3. My officials, and their legal advisers, have examined the options. There are three:-

- (i) to amend future gilt-edged prospectuses and related market notices;
- (ii) to legislate by amending the Finance Bill; or
- (iii) to do nothing to change the legal position but to take such administrative steps as we can to minimise disruption in future.

4. Finance Bill legislation would be unnecessarily contentious and heavy-handed, while to do nothing to change the legal position would leave us open to a repetition of this year's events if we wished to avoid either a hiatus in the funding programme or possible legal action against us.



5. I therefore believe that the first option is the best. The Treasury would issue a press statement referring to the difficulty that arose on the bond-washing measures, and clarifying the position for the future. A reference to this statement would then be included in all future gilts prospectuses and to the Bank's press and market notices on gilts sales. This would explain that the Government did not undertake to disclose all tax changes decided on but not yet announced which might specifically affect the terms or conditions on which the stock was sold, and did not accept responsibility for any non-disclosure. I attach ... a copy of the press statement I have in mind and the related paragraph for the prospectus (though this is still subject to advice that is being sought from the Attorney General on the precise wording).

6. I am sure it is right to limit the statement to tax changes specifically affecting gilts. It is difficult to think of any non-tax changes specifically affecting gilts which a Conservative Government might wish to introduce. With no measurable benefit from widening the area where we seek protection, it seems best to minimise the risk of controversy by restricting the protection to tax measures.

7. As to timing, I should like the announcement to be made at the earliest opportunity. The Chief Secretary mentioned during the Committee of the Whole House on the Finance Bill yesterday the emergence of a possible difficulty with the indexation proposals for capital gains tax as they affect gilts, where we may wish to amend the Finance Bill. This strengthens the case for pressing ahead with the announcement I have in mind. If we were to approach a decision on the indexation proposals before a statement had been published on disclosure we would once again be faced with having to announce it as soon as it had been made, if not before.

8. The Governor is not convinced of the need for any change, however. He would prefer to retain the status quo, on the grounds that occasions of the kind that have caused difficulty are likely to be very few and far between. He is chiefly concerned that the change to the prospectus (and the associated Treasury statement) might be criticised as relieving the Government from responsibilities for investor protection which it is trying to reinforce in the Financial Services



Bill for other issuers of securities. But he is also concerned that a health warning of the kind envisaged might adversely affect sentiment in the gilt-edged market.

9. I think the Governor underplays the difficulties of retaining the status quo and the advantages of announcing all tax measures together in the Budget. I do take seriously the risk that the Government may be represented as seeking special privileges on disclosure; but the protection we are claiming is strictly confined to tax matters and is plainly in the interests of orderly Budget-making. My officials have consulted DTI, in view of their responsibility for the Financial Services Bill, who have confirmed they are content with the approach proposed. On the advice we have received from Treasury Solicitor and junior Treasury Counsel, subject to the Attorney General's conclusions, the risk of legal challenge seems minimal. I do not believe the market would be seriously upset by an announcement which reaffirms a position which everyone (including the Governor) had always believed to be the status quo.

10. The Governor has made it clear to me that he is prepared, reluctantly, to follow the course I recommend. But since he does feel strongly on the issue, I think it would be right if you and I were to discuss it with him early next week, before a final decision is taken.

A handwritten signature in dark ink, appearing to be 'N.L.' with a flourish.

N.L.

9 May 1985

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DRAFT TREASURY NOTICE

Disclosure of Tax decisions affecting Government Securities

In the course of preparation for this year's Budget it became apparent that where certain proposals were being considered that could specifically affect the terms of issue (whether express or implied) of Government securities there was an element of doubt as to the point at which such proposals should be disclosed.

This question arose on the measure to be taken to change the tax treatment of accrued interest on fixed interest securities. The Government received advice that there was a strong case for announcing this change as soon as the decision had been taken. Accordingly, the measure was announced immediately by the Inland Revenue, on 28 February, despite its close link with the reform of Capital Gains Tax announced later, in the Budget.

Although the occasions when tax changes that could give rise to such doubts are under consideration are likely to be infrequent, it is desirable to clarify the position for the future. The Government must not be constrained from making decisions in an orderly manner, or where necessary from announcing related policy decisions at an appropriate time, for example in a Budget statement. This means that on occasion some time may elapse between the point when a decision that may specifically affect the terms of issue of Government securities is taken and its eventual announcement.

For the avoidance of doubt, therefore, the Treasury wishes to make it clear that in the interest of the orderly conduct of fiscal policy, neither HM Government nor the Bank of England or their respective servants or agents undertake to disclose tax changes decided on but not yet announced, even where they may specifically affect the terms on which, or the conditions under which, Government securities are issued or sold by or on behalf of the Government or the Bank. No responsibility can therefore be accepted for any omission to make such disclosure and such omission shall neither render any transaction liable to be set aside nor give rise to any claim for compensation.

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A reference to this statement will henceforth be included in the documentation upon which Government securities are issued or sold by or on behalf of the Government or the Bank.

The statement clarifies the position of the Government and explains the background of a new provision that will be included in future Government stock procedures and raised to the level of the Secretary of the Treasury with the Board of Governors. It is noted that there had been discussions that the 10% interest provision could be used by those seeking to establish a stock fund of 10% in 1954 and other debt instruments which would be subject to the 10% rate. It was stated that if the Government were to conclude that any controlling device were necessary it would be going to introduce amendments to the Finance Bill at a later date. It is noted that the Government has at present no intention of introducing, nor has under consideration, any tax changes which are affecting the issue of loans or any of its securities.

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NOTES FOR EDITORS

Today's statement by the Treasury clarifies the position of the Government and the Bank of England, in relation to Government securities issued or sold by them or on their behalf.

As the statement explains, advice received by the Government caused the Inland Revenue to bring forward, on 28 February, the announcement of a measure to change the tax treatment of interest on fixed interest securities, which would otherwise have formed part of the Chancellor's Budget statement.

The statement clarifies the position for the future, and explains the background to a new paragraph that will be included in future Government stock prospectuses and related documents. The Chief Secretary to the Treasury told the House of Commons on 8 May that there had been suggestions that the CGT indexation provisions could be used by those seeking to establish a short term CGT loss on gilts and other debt instruments where counterbalancing gains did not normally arise. He said that if the Government were to conclude that any countervailing action were necessary it would be ready to introduce amendments to the Finance Bill at a later stage. Apart from this, the Government has at present no intention to introduce, nor has under consideration, any tax change adversely affecting the terms of issue of any of its securities.

13 MAY 1985

1 2 3 4 5 6 7 8 9 10 11 12

DRAFT PARAGRAPH FOR PROSPECTUS

Government Statement

"Attention is drawn to the statement issued by HMT on [date] which explained that in the interests of the orderly conduct of fiscal policy, neither HM Government nor the Bank of England or their respective servants or agents undertake to disclose tax changes decided on but not yet announced even where they may specifically affect the terms on which, or the conditions under which, this stock is issued or sold; that no responsibility could therefore be accepted for any omission to make such disclosure; and that such omission would neither render any transaction liable to be set aside nor give rise to any claim for compensation."

TR OF LONDON

ECTURE

Total Services in
1960m

MP for
Chlor bilateral



10 DOWNING STREET

Pure Ministers ①

The Governor → still reluctant
to make the change but the
Chancellor feels he would
acquiesce if strongly urged
by you to do so.

Agree next week's bilateral
be extended to accommodate,
a session with the Governor?

Yes no

BT
9/8/5