



Financial Services Act 1986

1986 CHAPTER 60

PART I

REGULATION OF INVESTMENT BUSINESS

CHAPTER X

INFORMATION

102 Register of authorised persons and recognised organisations etc.

- (1) The Secretary of State shall keep a register containing an entry in respect of—
 - (a) each person who is an authorised person by virtue of an authorisation granted by the Secretary of State;
 - (b) each other person who appears to him to be an authorised person by virtue of any provision of this Part of this Act;
 - (c) each recognised self-regulating organisation, recognised professional body, recognised investment exchange and recognised clearing house;
 - (d) each authorised unit trust scheme and recognised scheme;
 - (e) each person in respect of whom a direction under section 59 above is in force.
- (2) The entry in respect of each authorised person shall consist of—
 - (a) a statement of the provision by virtue of which he is an authorised person ;
 - (b) in the case of a person who is an authorised person by virtue of membership of a recognised self-regulating organisation or certification by a recognised professional body, the name and address of the organisation or body;
 - (c) in the case of a person who is an authorised person by virtue of section 25 or 31 above, information as to the services which that person holds himself out as able to provide;
 - (d) in the case of a person who is an authorised person by virtue of section 31 above, the address notified to the Secretary of State under section 32 above ;

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- (e) in the case of a person who is an authorised person by virtue of any provision other than section 31 above, the date on which he became an authorised person by virtue of that provision ; and (f) such other information as the Secretary of State may determine.
- (3) The entry in respect of each such organisation, body, exchange or clearing house as is mentioned in subsection (1)(c) above shall consist of its name and address and such other information as the Secretary of State may determine.
- (4) The entry in respect of each such scheme as is mentioned in subsection (1)(d) above shall consist of its name and, in the case of an authorised unit trust scheme, the name and address of the manager and trustee and, in the case of a recognised scheme, the name and address of the operator and of any representative of the operator in the United Kingdom and, in either case, such other information as the Secretary of State may determine.
- (5) The entry in respect of each such person as is mentioned in subsection (1)(e) above shall include particulars of any consent for that person's employment given by the Secretary of State.
- (6) Where it appears to the Secretary of State that any person in respect of whom there is an entry in the register by virtue of subsection (1) (a) or (b) above has ceased to be an authorised person (whether by death, by withdrawal or other cessation of his authorisation, as a result of his ceasing to be a member of a recognised self-regulating organisation or otherwise) the Secretary of State shall make a note to that effect in the entry together with the reason why the person in question is no longer an authorised person.
- (7) Where
 - (a) an organisation, body, exchange or clearing house in respect of which there is an entry in the register by virtue of paragraph (c) of subsection (1) above has ceased to be recognised or ceased to exist;
 - (b) an authorised unit trust scheme or recognised scheme in respect of which there is an entry in the register by virtue of paragraph (d) of that subsection has ceased to be authorised or recognised ; or
 - (c) the direction applying to a person in respect of whom there is an entry in the register by virtue of paragraph (e) of that subsection has ceased to have effect,
 the Secretary of State shall make a note to that effect in the entry.
- (8) An entry in respect of which a note is made under subsection (6) or (7) above may be removed from the register at the end of such period as the Secretary of State thinks appropriate.

103 Inspection of register

- (1) The information contained in the entries included in the register otherwise than by virtue of section 102(1)(e) above shall be open to inspection; and the Secretary of State may publish the information contained in those entries in any form he thinks appropriate and may offer copies of any such information for sale.
- (2) A person shall be entitled to ascertain whether there is an entry in the register by virtue of subsection (1)(e) of section 102 above (not being an entry in respect of which there is a note under subsection (7) of that section) in respect of a particular person specified by him and, if there is such an entry, to inspect it.

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- (3) Except as provided by subsection (2) above the information contained in the register by virtue of section 102(1)(e) above shall not be open to inspection by any person unless he satisfies the Secretary of State that he has a good reason for seeking the information.
- (4) A person to whom information is made available by the Secretary of State under subsection (3) above shall not, without the consent of the Secretary of State or of the person to whom the information relates, make use of it except for the purpose for which it was made available.
- (5) Information which by virtue of this section is open to inspection shall be open to inspection free of charge but only at such times and places as the Secretary of State may appoint; and a person entitled to inspect any information may obtain a certified copy of it from the Secretary of State on payment of the prescribed fee.
- (6) The register may be kept by the Secretary of State in such form as he thinks appropriate with a view to facilitating inspection of the information which it contains.

104 Power to call for information

- (1) The Secretary of State may by notice in writing require a person who is authorised to carry on investment business by virtue of section 22, 24, 25 or 31 above to furnish him with such information as he may reasonably require for the exercise of his functions Under this Act.
- (2) The Secretary of State may by notice in writing require a recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house to furnish him with such information as he may reasonably require for the exercise of his functions under this Act.
- (3) The Secretary of State may require any information which he requires under this section to be furnished within such reasonable time and verified in such manner as he may specify.
- (4) Sections 60, 61 and 62 above shall have effect in relation to a contravention of a requirement imposed under subsection (1) above as they have effect in relation to a contravention of the provisions to which those sections apply.

105 Investigation powers

- (1) The powers of the Secretary of State under this section shall be exercisable in any case in which it appears to him that there is good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any person so far as relevant to any investment business which he is or was carrying on or appears to the Secretary of State to be or to have been carrying on.
- (2) Those powers shall not be exercisable for the purpose of investigating the affairs of any exempted person unless he is an appointed representative or the investigation is in respect of investment business in respect of which he is not an exempted person and shall not be exercisable for the purpose of investigating the affairs of a member of a recognised self-regulating organisation or a person certified by a recognised professional body in respect of investment business in the carrying on of which he is subject to its rules unless—

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- (a) that organisation or body has requested the Secretary of State to investigate those affairs; or
 - (b) it appears to him that the organisation or body is unable or unwilling to investigate them in a satisfactory manner.
- (3) The Secretary of State may require the person whose affairs are to be investigated (" the person under investigation ") or any connected person to attend before the Secretary of State at a specified time and place and answer questions or otherwise furnish information with respect to any matter relevant to the investigation.
- (4) The Secretary of State may require the person under investigation or any other person to produce at a specified time and place any specified documents which appear to the Secretary of State to relate to any matter relevant to the investigation ; and—
- (a) if any such documents are produced, the Secretary of State may take copies or extracts from them or require the person producing them or any connected person to provide an explanation of any of them ;
 - (b) if any such documents are not produced, the Secretary of State may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (5) A statement by a person in compliance with a requirement imposed by virtue of this section may be used in evidence against him.
- (6) A person shall not under this section be required to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the High Court or on grounds of confidentiality as between client and professional legal adviser in proceedings in the Court of Session except that a lawyer may be required to furnish the name and address of his client.
- (7) The Secretary of State shall not require a recognised bank or licensed institution within the meaning of the Banking Act 1979 to disclose any information or produce any document relating to the affairs of a customer unless the Secretary of State considers it necessary to do so for the purpose of investigating any investment business carried on, or appearing to the Secretary of State to be carried on or to have been carried on, by the bank, institution or customer or, if the customer is a related company of the person under investigation, by that person.
- (8) Where a person claims a lien on a document its production under this section shall be without prejudice to the lien.
- (9) In this section—
- " connected person", in relation to any other person means—
 - (a) any person who is or was that other person's partner, employee, agent, appointed representative, banker, auditor or solicitor; and
 - (b) where the other person is a body corporate, any person who is or was a director, secretary or controller of that body corporate or of another body corporate of which it is or was a subsidiary ; and
 - (c) where the other person is an unincorporated association, any person who is or was a member of the governing body or an officer or controller of the association; and
 - (d) where the other person is an appointed representative, any person who is or was his principal; and

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- (e) where the other person is the person under investigation (being a body corporate), any related company of that body corporate and any person who is a connected person in relation to that company ;
 - " documents " includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;
 - " related company ", in relation to a person under investigation (being a body corporate), means any other body corporate which is or at any material time was—
 - (a) a holding company or subsidiary of the person under investigation;
 - (b) a subsidiary of a holding company of that person; or
 - (c) a holding company of a subsidiary of that person,and whose affairs it is in the Secretary of State's opinion necessary to investigate for the purpose of investigating the affairs of that person.
- (10) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this section shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the fifth level on the standard scale or to both.

106 Exercise of investigation powers by officer etc.

- (1) The Secretary of State may authorise any officer of his or any other competent person to exercise on his behalf all or any of the powers conferred by section 105 above but no such authority shall be granted except for the purpose of investigating the affairs, or any aspects of the affairs, of a person specified in the authority.
- (2) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of an authority granted under this section unless he has, if required to do so, produced evidence of his authority.
- (3) Where the Secretary of State authorises a person other than one of his officers to exercise any powers by virtue of this section that person shall make a report to the Secretary of State in such manner as he may require on the exercise of those powers and the results of exercising them.