

*Status: Point in time view as at 01/05/2001.*

*Changes to legislation: Financial Services Act 1986 (Repealed), SCHEDULE 2 is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

Section 10.

#### REQUIREMENTS FOR RECOGNITION OF SELF-REGULATING ORGANISATION

##### *Members to be fit and proper persons*

- 1 (1) The rules and practices of the organisation must be such as to secure that its members are fit and proper persons to carry on investment business of the kind with which the organisation is concerned.
- (2) Where the organisation is concerned with investment business of different kinds its rules and practices must be such as to secure that a member carrying on investment business of any of those kinds is a fit and proper person to carry on investment business of that kind.
- (3) The matters which may be taken into account under the rules in determining whether a person is a fit and proper person must include those that the Secretary of State may take into account under section 27 above.
- (4) This paragraph does not apply to a person who is not an authorised person by virtue of being a member of the organisation.

##### **Modifications etc. (not altering text)**

**C1** Sch. 2 para. 1 extended (1.1.1996) by S.I. 1995/3275, reg. 21(2)

##### *Admission, expulsion and discipline*

- 2 The rules and practices of the organisation relating to—
  - (a) the admission and expulsion of members; and
  - (b) the discipline it exercises over its members,must be fair and reasonable and include adequate provision for appeals.

##### **Modifications etc. (not altering text)**

**C2** Sch. 2 para. 2 amended (1.1.1993) by S.I. 1992/3218, reg. 48(2).  
Sch. 2 para. 2 amended (1.7.1994) by S.I. 1994/1696, reg. 56(1)  
Sch. 2 para. 2 appl.(mods) (18.7.1996) by S.I. 1996/1669, reg. 9(4)  
Sch. 2 para. 2 extended (1.1.1996) by S.I. 1995/3275, reg. 21(5)  
Sch. 2 para. 2 extended (1.1.1996) by S.I. 1995/3275, reg. 32, Sch. 7, para. 43(1)  
Sch. 2 para. 2 amended (1.1.1993) by S.I. 1992/3218, reg. 55, Sch. 9 para. 45(1).

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### *Safeguards for investors*

- 3 [F1(1) The organisation must have rules governing the carrying on of investment business by its members which, together with the statements of principle, rules, regulations and codes of practice to which its members are subject under Chapter V of Part I of this Act, are such as to afford an adequate level of protection for investors.
- (2) In determining in any case whether an adequate level of protection is afforded for investors of any description, regard shall be had to the nature of the investment business carried on by members of the organisation, the kinds of investors involved and the effectiveness of the organisation's arrangements for enforcing compliance.]
- (3) The organisation must, so far as practicable, have powers for purposes corresponding to those of Chapter VI of Part I of this Act.
- (4) The rules of the organisation must enable it to prevent a member resigning from the organisation if the organisation considers that any matter affecting him should be investigated as a preliminary to a decision on the question whether he should be expelled or otherwise disciplined or if it considers that it is desirable that a prohibition or requirement should be imposed on him under the powers mentioned in sub-paragraph (3) above or that any prohibition or requirement imposed on him under those powers should continue in force.

#### **Textual Amendments**

**F1** Sch. 2 para. 3(1)(2) substituted by [Companies Act 1989 \(c. 40, SIF 27\), s. 203\(1\)](#)

#### **Modifications etc. (not altering text)**

**C3** Sch. 2 para. 3 amended (1.1.1993) by [S.I. 1992/3218, reg. 55, Sch. 9 para. 45\(2\)](#).

SCh. 2 para. 3 amended (1.7.1994) by [S.I. 1994/1696, reg. 56\(2\)](#)

[Sch. 2 para. 3](#) extended (1.1. 1996) by [S.I. 1995/3275, reg. 32, Sch. 7 para. 43\(2\)\(3\)](#)

**C4** Sch. 2 para. 3(3) amended (1.1.1993) by [S.I. 1992/3218, reg. 55, Sch. 9 para. 45\(3\)\(a\)](#).

### *[F2 Taking account of costs of compliance]*

#### **Textual Amendments**

**F2** Sch. 2 para. 3A inserted (with saving) by [Companies Act 1989 \(c. 40, SIF 27\), s. 204\(1\)\(2\)\(3\)](#)

- 3A The organisation must have satisfactory arrangements for taking account, in framing its rules, of the cost to those to whom the rules would apply of complying with those rules and any other controls to which they are subject.

### *Monitoring and enforcement*

- 4 (1) The organisation must have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules and with any [F3 statement of principle, rules, regulations or codes of practice] to which its members are subject

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under Chapter V of Part I of this Act in respect of investment business of a kind regulated by the organisation.

- (2) The arrangements for monitoring may make provision for that function to be performed on behalf of the organisation (and without affecting its responsibility) by any other body or person who is able and willing to perform it.

#### Textual Amendments

**F3** Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 20

#### *The governing body*

- 5 (1) The arrangements of the organisation with respect to the appointment, removal from office and functions of the persons responsible for making or enforcing the rules of the organisation must be such as to secure a proper balance—
- (a) between the interests of the different members of the organisation; and
  - (b) between the interests of the organisation or its members and the interests of the public.
- (2) The arrangements shall not be regarded as satisfying the requirements of this paragraph unless the persons responsible for those matters include a number of persons independent of the organisation and its members sufficient to secure the balance referred to in sub-paragraph (1)(b) above.

#### *Investigation of complaints*

- 6 (1) The organisation must have effective arrangements for the investigation of complaints against the organisation or its members.
- (2) The arrangements may make provision for the whole or part of that function to be performed by and to be the responsibility of a body or person independent of the organisation.

#### *Promotion and maintenance of standards*

- 7 The organisation must be able and willing to promote and maintain high standards of integrity and fair dealing in the carrying on of investment business and to cooperate, by the sharing of information and otherwise, with the Secretary of State and any other authority, body or person having responsibility for the supervision or regulation of investment business or other financial services.

#### Modifications etc. (not altering text)

**C5** Sch. 2 para. 7 amended (1.1.1993) by S.I. 1992/3218, reg. 55, Sch. 9 para. 45(4).  
Sch. 2 para. 7 amended (1.7.1994) by S.I. 1994/1696, reg. 56(4)  
Sch. 2 para. 7 extended (1.1.1996) by S.I. 1995/3275, reg. 32, Sch. 7 para. 43(4)

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