

SCHEDULES

SCHEDULE 23

CONSEQUENTIAL AMENDMENTS OF THE FINANCIAL SERVICES ACT 1986

PART II

AMENDMENTS RELATING TO FRIENDLY SOCIETIES

- 32 Before paragraph 14 and after the heading “Conduct of investment business”, insert—
- “13A (1) The Registrar may issue statements of principle with respect to the conduct expected of regulated friendly societies.
- (2) The conduct expected may include compliance with a code or standard issued by another person, as for the time being in force, and may allow for the exercise of discretion by any person pursuant to any such code or standard.
- (3) Failure to comply with a statement of principle under this paragraph is a ground for the taking of disciplinary action or the exercise of powers of intervention, but it does not give rise to any right of action by investors or other persons affected or affect the validity of any transaction.
- (4) The disciplinary action which may be taken by virtue of sub-paragraph (3) is—
- (a) the making of a public statement under paragraph 21, or
- (b) the application by the Registrar for an injunction, interdict or other order under paragraph 22(1), or
- (c) any action under paragraph 26 or 27 of this Schedule;
- and the reference in that sub-paragraph to powers of intervention is to the powers conferred by Chapter VI of Part I of this Act.
- (5) Where a statement of principle relates to compliance with a code or standard issued by another person, the statement of principle may provide—
- (a) that failure to comply with the code or standard shall be a ground for the taking of disciplinary action, or the exercise of powers of intervention, only in such cases and to such extent as may be specified; and
- (b) that no such action shall be taken, or any such power exercised, except at the request of the person by whom the code or standard in question was issued.
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Status: This is the original version (as it was originally enacted).

- (6) The Registrar shall exercise his powers in such manner as appears to him appropriate to secure compliance with statements of principle under this paragraph.
- 13B (1) The relevant regulatory authority may on the application of a regulated friendly society—
- (a) modify a statement of principle issued under paragraph 13A so as to adapt it to the circumstances of the society or to any particular kind of business carried on by it, or
 - (b) dispense the society from compliance with any such statement of principle, generally or in relation to any particular kind of business carried on by it.
- (2) The powers conferred by this paragraph shall not be exercised unless it appears to the relevant regulatory authority—
- (a) that compliance with the statement of principle in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on investors, and
 - (b) that the exercise of those powers will not result in any undue risk to investors.
- (3) The powers conferred by this paragraph may be exercised unconditionally or subject to conditions; and paragraph 13A(3) applies in the case of failure to comply with a condition as in the case of failure to comply with a statement of principle.
- (4) The relevant regulatory authority for the purposes of this paragraph is—
- (a) in the case of a member society of a recognised self-regulating organisation for friendly societies, in relation to investment business in the carrying on of which it is subject to the rules of the organisation, that organisation;
 - (b) in any other case, or in relation to other investment business, the Registrar.
- (5) The reference in paragraph 4(1) of Schedule 2 as applied by paragraph 4 above (requirements for recognition of self-regulating organisation for friendly societies) to monitoring and enforcement of compliance with statements of principle includes monitoring and enforcement of compliance with conditions imposed by the organisation under this paragraph.”.