
STATUTORY INSTRUMENTS

1996 No. 1669

**The Financial Institutions (Prudential
Supervision) Regulations 1996**

PART IV

FINANCIAL SERVICES

Disclosure of information: UCITS

12.—(1) This paragraph applies to any confidential information which—

- (a) any person who works or has worked for any person designated by the United Kingdom as a competent authority for the purposes of Article 49 of the UCITS Directive; or
- (b) any auditor or expert instructed by such an authority,

has received in the course of discharging his duties as such a person, auditor or expert in relation to an undertaking to which the UCITS Directive applies and which is, within the meaning of that Directive, situated in an EEA State.

(2) Section 179 of the Financial Services Act shall not apply to information to which paragraph (1) above applies.

(3) Information to which paragraph (1) above applies shall not be disclosed by any person referred to in sub-paragraph (a) or (b) of that paragraph, or by any person receiving it directly or indirectly from such a person, except in any of the circumstances specified in paragraphs 2 to 11 of Article 50 of the UCITS Directive (as inserted by the Prudential Supervision Directive), the text of which (as so inserted) is set out in Schedule 3 to these Regulations.

(4) For the purposes of paragraph (3) above information to which paragraph (1) above applies may, subject to the provisions of paragraph (6) below, be disclosed in the circumstances described in Article 50.11 of the UCITS Directive.

(5) Information received under Article 50.3 of the UCITS Directive may not be communicated in the circumstances referred to in Article 50.10 of that Directive without the express consent of the supervisory authority from whom it was obtained.

(6) Information of the kind described in the third paragraph of Article 50.11 of the UCITS Directive may not be disclosed in the cases referred to in Article 50.11 except with the express consent of whichever is relevant of the authorities mentioned in the third paragraph of Article 50.11.

(7) Any person who contravenes any provision of this regulation shall be guilty of an offence and liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both.

(8) Proceedings in respect of an offence under this Regulation shall not be instituted—

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- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions; or
 - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (9) In proceedings brought against any person for an offence under this regulation, it shall be a defence for him to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (10) In this regulation “the UCITS Directive” has the same meaning as in regulation 10 above.