

## SCHEDULE 2

Regulation 11(3).

### PARAGRAPHS SUBSTITUTED FOR PARAGRAPH 6 OF ARTICLE 25 OF THE INVESTMENT SERVICES DIRECTIVE

**5a.** Notwithstanding paragraphs 1 to 4, Member States may authorize exchanges of information between the competent authorities and:

- the authorities responsible for overseeing the bodies involved in the liquidation and bankruptcy of financial undertakings and other similar procedures, or
- the authorities responsible for overseeing persons charged with carrying out statutory audits of the accounts of insurance undertakings, credit institutions, investment firms and other financial institutions.

Member States which have recourse to the option provided for in the first sub-paragraph shall require at least that the following conditions are met:

- the information shall be for the purpose of performing the task of overseeing referred to in the first sub-paragraph.
- information received in this context shall be subject to the conditions of professional secrecy imposed in paragraph 1,
- where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Member States shall communicate to the Commission and to the other Member States the names of the authorities which may receive information pursuant to this paragraph.

**5b.** Notwithstanding paragraphs 1 to 4, Member States may, with the aim of strengthening the stability, including integrity, of the financial system, authorise the exchange of information between the competent authorities and the authorities or bodies responsible under the law for the detection and investigation of breaches of company law.

Member States which have recourse to the option provided for in the first sub-paragraph shall require at least that the following conditions are met:

- the information shall be for the purpose of performing the task referred to in the first sub-paragraph,
- information received in this context shall be subject to the conditions of professional secrecy imposed in paragraph 1,
- where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Where, in a Member State, the authorities or bodies referred to in the first sub-paragraph perform their task of detection or investigation with the aid, in view of their specific competence, of persons appointed for that purpose and not employed in the public sector, the possibility of exchanging information provided for in the first sub-paragraph may be extended to such persons under the conditions stipulated in the second sub-paragraph.

In order to implement the final indent of the second sub-paragraph, the authorities or bodies referred to in the first sub-paragraph shall communicate to the competent authorities which have disclosed the information, the names and precise responsibilities of the persons to whom it is to be sent.

Member States shall communicate to the Commission and to the other Member States the names of the authorities or bodies which may receive information pursuant to this paragraph.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Before 31 December 2000, the Commission shall draw up a report on the application of the provisions of this paragraph.

6. This Article shall not prevent a competent authority from transmitting:

- to central banks and other bodies with a similar function in their capacity as monetary authorities,
- where appropriate, to other public authorities responsible for overseeing payment systems,

information intended for the performance of their task, nor shall it prevent such authorities or bodies from communicating to the competent authorities such information as they may need for the purposes of paragraph 4. Information received in this context shall be subject to the conditions of professional secrecy imposed in this Article.