

## SCHEDULE 5

### AUDITORS

#### *Rights on removal or non-reappointment*

**13.**—(1) A resolution at a general meeting of a company—

- (a) removing an auditor before the expiration of his period of office; or
- (b) appointing as auditor a person other than the retiring auditor;

is not effective unless notice of the intention to move it has been given to the open-ended investment company at least 28 days before the meeting at which it is moved.

(2) On receipt of notice of such an intended resolution, the company must forthwith send a copy to the person proposed to be removed or, as the case may be, to the person proposed to be appointed and to the retiring auditor.

(3) The auditor proposed to be removed or, as the case may be, the retiring auditor may make with respect to the intended resolution representations in writing to the company (not exceeding a reasonable length) and request their notification to the shareholders of the company.

(4) The company must (unless the representations are received by the company too late for it to do so)—

- (a) in any notice of the resolution given to the shareholders of the company, state the fact of the representations having been made;
- (b) send a copy of the representations to each of the shareholders whose name appears on the register of shareholders (other than the designated person) and to whom notice of the meeting is or has been sent;
- (c) take such steps as [F1FCA rules] may require for the purpose of bringing the fact that the representations have been made to the attention of the holders of any bearer shares; and
- (d) at the request of any holder of bearer shares, provide a copy of the representations.

(5) If a copy of any such representations is not sent out as required because they were received too late or because of the company's default or if, for either of those reasons, any steps required by sub-paragraph (4)(c) or (d) are not taken, the auditor may (without prejudice to his right to be heard orally) require that the representations be read out at the meeting.

(6) Copies of the representations need not be sent out, the steps required by sub-paragraph (4)(c) or (d) need not be taken and the representations need not be read out at the meeting if, on the application of the company or any other person claiming to be aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; and the court may order the costs of the company on such an application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

#### **Textual Amendments**

**F1** Words in Regulations substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 41\(2\)](#)

**14.**—(1) An auditor who has been removed from office has, notwithstanding his removal, the rights conferred by paragraph 9 in relation to any general meeting of the company at which his term of office would otherwise have expired or at which it is proposed to fill the vacancy caused by his removal.

**Changes to legislation:** *There are currently no known outstanding effects for the The Open-Ended Investment Companies Regulations 2001, Rights on removal or non-reappointment. (See end of Document for details)*

(2) The reference in paragraph 9 to business concerning the auditors as auditors is to be construed in relation to an auditor who has been removed from office as a reference to business concerning him as former auditor.

**Changes to legislation:**

There are currently no known outstanding effects for the The Open-Ended Investment Companies Regulations 2001, Rights on removal or non-reappointment.