

## SCHEDULE 2

Regulations 23 and 24

### CONDITIONS FOR PERMITTED DISCLOSURE

#### PART 1

##### DISCLOSURE TO SPECIFIED PUBLIC AUTHORITY

1. Paragraphs 2 and 3 set out the conditions specified for the disclosure of protected information by the registrar to a specified public authority.

2. The specified public authority has delivered to the registrar a statement that it intends to use the protected information only for the purpose of facilitating the carrying out by that specified public authority of a public function (“the permitted purpose”).

3. Subject to paragraph 4, the specified public authority (“the authority”) has delivered to the registrar a statement that it will, where it supplies a copy of the protected information to a processor for the purpose of processing the information for use in respect of the permitted purpose—

- (a) ensure that the processor is one who carries on business [<sup>F1</sup>in the United Kingdom or] in the European Economic Area;
- (b) require that the information is not transmitted outside the [<sup>F2</sup>area comprising the United Kingdom and the European Economic Area] by the processor; and
- (c) require that the processor does not disclose the information except to the authority or an employee of the authority.

##### Textual Amendments

- F1** Words in Sch. 2 para. 3(a) inserted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, Sch. 2 para. 8(a)(i) (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Sch. 2 para. 3(b) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, Sch. 2 para. 8(a)(ii) (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

4. Paragraph 3 does not apply where the specified public authority is the Secret Intelligence Service, Security Service or Government Communications Headquarters.

#### PART 2

##### DISCLOSURE TO CREDIT REFERENCE AGENCY

5. Paragraphs 6 to 10 set out the conditions specified for the disclosure of protected information by the registrar to a credit reference agency.

6.—<sup>F3</sup>(1) The credit reference agency—

- (a) is carrying on in the United Kingdom <sup>F4</sup>... a business comprising the furnishing of information relevant to the financial standing of individuals, being information collected by the agency for that purpose;
- (b) maintains appropriate procedures—

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**Changes to legislation:** There are currently no known outstanding effects for the The Overseas Companies Regulations 2009, SCHEDULE 2. (See end of Document for details)

- (i) to ensure that an independent person can investigate and audit the measures maintained by the agency for the purposes of ensuring the security of any protected information disclosed to that agency; and
- (ii) for the purposes of ensuring that it complies with its <sup>F5</sup>obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018)];
- (c) has not been found guilty of an offence under—
  - (i) section 1112 (general false statement offence) of the Companies Act 2006 or section 2 of the Fraud Act 2006 <sup>M1</sup> (fraud by false representation),<sup>F6</sup>...
  - (ii) section 47 (failure to comply with enforcement notice) of the Data Protection Act 1998 in circumstances where it has used the protected information for purposes other than those described in sub-paragraphs (a) to (e) of paragraph 7 below<sup>F7</sup>; or ]
- <sup>F7</sup>(ii) for the purposes of ensuring that it complies with its data protection obligations;]
- <sup>F8</sup>(d) has not been given a penalty notice under section 155 of the Data Protection Act 2018 in circumstances described in paragraph (c)(ii), other than a penalty notice that has been cancelled.]
- <sup>F9</sup>(2) .....

**Textual Amendments**

- F3** Sch. 2 para. 6 renumbered as Sch. 2 para. 6(1) (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 340\(2\)](#) (with ss. 117, 209, 210); S.I. 2018/625, [reg. 2\(1\)\(g\)](#)
- F4** Words in Sch. 2 para. 6(1)(a) omitted (31.12.2020) by virtue of [The Companies, Limited Liability Partnerships and Partnerships \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/348\), reg. 2, Sch. 2 para. 8\(b\)\(i\)](#) (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Sch. 2 para. 6(1)(b)(ii) substituted (31.12.2020) by [The Companies, Limited Liability Partnerships and Partnerships \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/348\), reg. 2, Sch. 2 para. 8\(b\)\(ii\)](#) (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Word in Sch. 2 para. 6(1)(c)(i) omitted (25.5.2018) by virtue of [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 340\(4\)\(a\)](#) (with ss. 117, 209, 210); S.I. 2018/625, [reg. 2\(1\)\(g\)](#)
- F7** Sch. 2 para. 6(1)(c)(iii) and word inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 340\(4\)\(b\)](#) (with ss. 117, 209, 210); S.I. 2018/625, [reg. 2\(1\)\(g\)](#)
- F8** Sch. 2 para. 6(1)(d) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 340\(5\)](#) (with ss. 117, 209, 210); S.I. 2018/625, [reg. 2\(1\)\(g\)](#)
- F9** Sch. 2 para. 6(2) omitted (31.12.2020) by virtue of [The Companies, Limited Liability Partnerships and Partnerships \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/348\), reg. 2, Sch. 2 para. 8\(b\)\(iii\)](#) (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

**Marginal Citations**

- M1** 2006 c.35.

7. The credit reference agency has delivered to the registrar a statement that it intends to use that protected information only for the purposes of—
- (a) providing an assessment of the financial standing of a person;
  - (b) meeting any obligations contained in <sup>F10</sup>the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017] or any <sup>F11</sup>rules made pursuant to section 137A of the Financial Services and Markets Act 2000 which relate to

the prevention and detection of money laundering in connection with the carrying on of regulated activities by authorised persons]<sup>F12</sup> ...

- (c) conducting conflict of interest checks required or made necessary by any enactment;
- (d) the provision of protected information to—
  - (i) a public authority specified in Schedule 1 which has satisfied the requirements of paragraphs 2 and 3 of this Schedule; or
  - (ii) a credit reference agency which has satisfied the requirements of this Part of this Schedule; or
- (e) conducting checks for the prevention and detection of crime and fraud.

#### Textual Amendments

- F10** Words in Sch. 2 para. 7(b) substituted (26.6.2017) by The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692), reg. 1(2), **Sch. 7 para. 26(a)** (with regs. 8, 15)
- F11** Words in Sch. 2 para. 7(b) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), art. 1(1), **Sch. 2 para. 173(b)**
- F12** Words in Sch. 2 para. 7(b) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 2 para. 8(c)** (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

8. The credit reference agency has delivered to the registrar a statement that it intends to take delivery of and to use the protected information only in the United Kingdom <sup>F13</sup> ....

#### Textual Amendments

- F13** Words in Sch. 2 para. 8 omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 2 para. 8(d)** (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

9. The credit reference agency has delivered to the registrar a statement that it will, where it supplies a copy of the protected information to a processor for the purpose of processing the information for use in respect of the purposes referred to in paragraph 7—

- (a) ensure that the processor is one who carries on business in the [<sup>F14</sup>United Kingdom];
- (b) require that the information is not transmitted outside the [<sup>F15</sup>United Kingdom] by the processor; and
- (c) require that the processor does not disclose the information except to the credit reference agency or an employee of the credit reference agency.

#### Textual Amendments

- F14** Words in Sch. 2 para. 9(a) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 2 para. 8(e)** (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Sch. 2 para. 9(b) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 2 para. 8(e)** (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

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10. The credit reference agency has delivered to the registrar a statement that it meets the conditions in paragraph 6 above.

## PART 3

### INTERPRETATION OF THIS SCHEDULE

11.—(1) In this Schedule—

“processor” means any person who provides a service which consists of putting information into data form or processing information in data form, and any reference to a processor includes a reference to the processor's employees; and

“public function” includes—

- (a) any function conferred by or in accordance with any provision contained in any enactment;
- (b) <sup>F16</sup>...
- (c) any similar function conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom; and
- (d) any function exercisable in relation to the investigation of any criminal offence or for the purpose of any criminal proceedings.

(2) In this Schedule any reference to—

- (a) an employee of any person who has access to protected information shall be deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service; and
- (b) the disclosure for the purpose of facilitating the carrying out of a public function includes disclosure in relation to, and for the purpose of, any proceedings whether civil, criminal or disciplinary in which the specified public authority engages while carrying out its public functions.

#### Textual Amendments

**F16** Words in Sch. 2 para. 11 omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, Sch. 2 para. 8(f) (with Sch. 4 para. 5) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

**Status:**

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**Changes to legislation:**

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