

SCHEDULE 1

Regulation 2

SPECIFIED PUBLIC AUTHORITIES

The Secretary of State;
any Northern Ireland Department;
the Scottish Ministers;
the Welsh Ministers;
the Treasury;
the Commissioners for Her Majesty's Revenue and Customs;
the Bank of England;
the Director of Public Prosecutions;
the Director of Public Prosecutions for Northern Ireland;
the Serious Fraud Office;
the Secret Intelligence Service;
the Security Service;
the Government Communications Headquarters;
the Financial Services Authority;
the Competition Commission;
the Pensions Regulator;
the Panel on Takeovers and Mergers;
the Regulator of Community Interest Companies;
the Registrar of Credit Unions for Northern Ireland;
the Office of Fair Trading;
the Office of the Information Commissioner;
the Charity Commission;
the Charity Commission for Northern Ireland;
the Office of the Scottish Charity Regulator;
the Postal Services Commission;
the Gas and Electricity Markets Authority;
the Northern Ireland Authority for Utility Regulation;
the Gambling Commission;
the Serious Organised Crime Agency;
the Health and Safety Executive;
the Health and Safety Executive for Northern Ireland;
the Food Standards Agency;
the Gangmasters Licensing Authority;
the Security Industry Authority;
a local authority within the meaning of section 54(2) of the Act;
an official receiver appointed under section 399 of the Insolvency Act 1986 ^{M1} (appointment, etc, of official receivers);
the Official Receiver for Northern Ireland;
the Crown Office and Procurator Fiscal Services;
a person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 ^{M2} (meaning of “act as an insolvency practitioner”) or Article 3 of the Insolvency (Northern Ireland) Order 1989 ^{M3} (“act as an insolvency practitioner”);
an inspector appointed under Part 14 of the 1985 Act (investigation of companies and their affairs: requisition of documents) or Part 15 of the 1986 Order or a person appointed under regulation 30 of the Open-Ended Investment Companies Regulations 2001 ^{M4} (power to investigate) or regulation 22 of the Open-Ended Investment Companies Regulations (Northern Ireland) 2004 ^{M5};
any person authorised to exercise powers under section 447 of the 1985 Act ^{M6} (power to require documents and information), or section 84 of the Companies Act 1989 ^{M7} (exercise of powers by officers, etc) or Article 440 of the 1986 Order;

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any person exercising functions conferred by Part 6 of the Financial Services and Markets Act 2000^{M8} (official listing) or the competent authority under that Part;

a person appointed to make a report under section 166 (reports by skilled persons) of the Financial Services and Markets Act 2000;

a person appointed to conduct an investigation under section 167 (appointment of persons to carry out general investigations) or 168(3) or (5) (appointment of persons to carry out investigations in particular cases) of the Financial Services and Markets Act 2000^{M9};

an inspector appointed under section 284 (power to investigate) of the Financial Services and Markets Act 2000;

an overseas regulatory authority within the meaning of section 82 of the Companies Act 1989^{M10} (request for assistance by overseas regulatory authority);

a police force.

Marginal Citations

- M1** 1986 c.45. Section 399 was amended by section 269 of the [Enterprise Act 2002 \(c.40\)](#).
- M2** [Section 388](#) was amended by section 4 of the [Insolvency Act 2000 \(c.39\)](#) and the [Insolvency Act \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1240\)](#).
- M3** S.I. 1989/2405 (N.I. 9).
- M4** S.I. 2001/1228.
- M5** S.R. (NI) 2004 No 335.
- M6** [Section 447](#) was substituted by section 21 of the [Companies \(Audit, Investigations and Community Enterprise\) Act 2004 \(c.27\)](#).
- M7** 1989 c.40.
- M8** 2000 c.8.
- M9** [Sections 167 and 168](#) were amended by the [Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/176\)](#).
- M10** [Section 82](#) was amended by section 79 of the [Criminal Justice Act 1993 \(c.36\)](#), the [Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#) and the [Prospectus Regulations 2005 \(S.I. 2005/1433\)](#).

SCHEDULE 2

Regulations 2 and 3

CONDITIONS FOR PERMITTED DISCLOSURE

PART 1

Disclosure to specified public authorities

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 in the European Economic Area;

- (b) require that the information is not transmitted outside 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.
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 a 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. The credit reference agency—
- (a) is carrying on in the United Kingdom or in another EEA State 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—
 - (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 obligations under the Data Protection Act 1998 ^{M11}, or, where the agency carries on business in a EEA State other than the United Kingdom, with its obligations under legislation implementing Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ^{M12};
 - (c) has not been found guilty of an offence under—
 - (i) section 1112 (general false statement offence) of the Act or section 2 of the Fraud Act 2006 ^{M13} (fraud by false representation); or
 - (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.

Marginal Citations

M11 1998 c.29.

M12 OJ L 81, 23.11.1995, p. 31.

M13 2006 c.35.

7. The credit reference agency has delivered to the registrar a statement that it intends to use the protected information only for the purposes of—
- (a) providing an assessment of the financial standing of a person;
 - (b) meeting any obligations contained in the Money Laundering Regulations 2007 ^{M14} or any rules made pursuant to section 146 of the Financial Services and Markets Act 2000 ^{M15} (money laundering rules), or in any legislation of another EEA State implementing Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005

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on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing^{M16};

- (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.

Marginal Citations

M14 S.I. 2007/2157.

M15 Section 146 enables the making of rules by the Financial Services Authority in relation to the prevention and detection of money laundering in connection with the carrying on of regulated activities by authorised persons.

M16 OJ L 309, 25.11.2005, p. 15.

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 or in another EEA State.

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 European Economic Area;
- (b) require that the information is not transmitted outside the European Economic Area 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.

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 his employees; and

“public function” includes—

- (a) any function conferred by or in accordance with any provision contained in any enactment;
- (b) any function conferred by or in accordance with any provision contained in the Community Treaties or any Community instrument;
- (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.

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