



Prevention of Fraud (Investments) Act 1958

1958 CHAPTER 45

Provisions for regulating the Business of Dealing in Securities

1 Licensing of dealers in securities

- (1) Subject to the provisions of the next following section, no person shall—
- (a) carry on or purport to carry on the business of dealing in securities except under the authority of a principal's licence, that is to say, a licence under this Act authorising him to carry on the business of dealing in securities, or
 - (b) in the capacity of a servant or agent of any person carrying on or purporting to carry on that business, deal or purport to deal in securities except under the authority of a representative's licence, that is to say, a licence under this Act authorising him to deal in securities as a servant or agent of any holder of a principal's licence for the time being in force.
- (2) Any person who contravenes this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and such fine or, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.
- (3) Proceedings for an offence under this section shall not, in England or Wales, be instituted except by, or with the consent of, the Board of Trade or the Director of Public Prosecutions:

Provided that this subsection shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remanding, in custody or on bail, of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

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2 Saving for certain transactions

- (1) The restrictions imposed by section one of this Act in relation to dealing in securities shall not apply to the doing of anything by, or on behalf of.—
 - (a) a member of any recognised stock exchange or recognised association of dealers in securities, or
 - (b) the Bank of England, any statutory corporation or municipal corporation, any exempted dealer or any industrial and provident society or building society, or
 - (c) any person acting in the capacity of manager or trustee under an authorised unit trust scheme.
- (2) For the purpose of determining whether or not a person has contravened any of the restrictions imposed by section one of this Act, no account shall be taken of his having done any of the following things (whether as a principal or as an agent), that is to say.—
 - (a) effecting transactions with, or through the agency of.—
 - (i) such a person as is mentioned in paragraph (a), paragraph (b) or paragraph (c) of the preceding subsection, or a person acting on behalf of such a person as is so mentioned, or
 - (ii) the holder of a licence,
 - (b) issuing any prospectus to which—
 - (i) section thirty-eight of the Companies Act, 1948, applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act; or
 - (ii) section four hundred and seventeen of that Act applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section four hundred and eighteen of that Act;
 - (c) issuing any document relating to securities of a corporation incorporated in Great Britain which is not a registered company, being a document which—
 - (i) would, if the corporation were a registered company, be a prospectus to which section thirty-eight of the Companies Act, 1948, applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act; and
 - (ii) contains all the matters and is issued with the consents which, by virtue of sections four hundred and seventeen and four hundred and nineteen of that Act it would have to contain and be issued with if the corporation were a company incorporated outside Great Britain and the document were a prospectus issued by that company; and
 - (d) issuing any form of application for shares in, or debentures of, a corporation together with—
 - (i) a prospectus which complies with the requirements of section thirty-eight of the Companies Act, 1948, or is not required to comply therewith because excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act, or complies with the requirements of Part X of that Act relating to prospectuses and is not issued in contravention of section four hundred and nineteen of that Act; or
 - (ii) in the case of a corporation incorporated in Great Britain which is not a registered company, a document containing all the matters and issued with the consents mentioned in sub-paragraph (ii) of paragraph (c) of this subsection,

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or of his having, as a principal, acquired, subscribed for or underwritten securities, or effected transactions with a person whose business involves the acquisition and disposal, or the holding, of securities (whether as a principal or as an agent).

Nothing in this subsection shall be construed as authorising any person to hold himself out as carrying on the business of dealing in securities.

3 Applications for, and grant and extent of, licences

- (1) Subject to the following provisions of this Act, the Board of Trade—
 - (a) upon an application in that behalf made by any person in the prescribed manner, and on payment of the prescribed fee, shall grant to that person a principal's licence, and
 - (b) upon an application made by any person in the prescribed manner, and on payment of the prescribed fee, shall grant to that person a representative's licence.
- (2) A licence shall, unless in the meantime it is revoked, be valid for the period of one year beginning with the day specified in the licence as the day on which it takes effect, and no longer.
- (3) A principal's licence shall specify the name of the person thereby authorised to carry on the business of dealing in securities, and shall not authorise him to carry on that business under any name other than that specified in the licence as his name :

Provided that, if the Board of Trade think fit, such a licence may, at the request of the applicant for the licence, be framed so as to authorise the holder thereof to carry on the said business, either alone or jointly with any other person being the holder of a principal's licence, under such name or style as the applicant may specify in his application.

4 Deposits or guarantees required in connection with applications for principals' licences

- (1) Subject to the provisions of this section, the Board of Trade shall not grant a principal's licence unless the sum of five hundred pounds has been, and remains, deposited by the applicant for the licence with the Accountant General of the Supreme Court of Judicature.
- (2) Where any sum has been deposited under this section, then—
 - (a) in the event of the depositor becoming bankrupt, the amount of the deposit shall be paid to the trustee in bankruptcy; or
 - (b) if, in a case where the depositor is a corporation, the corporation is ordered to be wound up by, or under the supervision of, the court, the amount of the deposit shall be repaid to the corporation;and the Board of Trade may by regulations determine the circumstances in which, apart from the preceding provisions of this subsection, a sum deposited under this section may be withdrawn ; but, save as aforesaid, no person shall be entitled to withdraw or transfer any deposit made under this section.
- (3) The Board of Trade may make such regulations as appear to them to be necessary with respect to the investment of sums deposited under this section, the deposit of securities in lieu of money, the payment to the depositor of the interest or dividends from time

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to time accruing due on any securities in which a deposit under this section is for the time being invested, or on any securities deposited under this section in lieu of money, and the realisation of such securities as aforesaid in specified circumstances.

- (4) Upon any application for a principal's licence the Board of Trade may dispense with the necessity of making a deposit under this section in relation to the application—
- (a) if there is given to the Board by a person approved by them an undertaking in the prescribed form that, in consideration of the Board's granting such a licence upon that application, the person giving the undertaking will, upon the occurrence of the following event at any time before a further principal's licence is granted to the holder of the licence referred to in the undertaking, that is to say, the holder's becoming bankrupt or, in a case where the holder is a corporation, the corporation's being ordered to be wound up by, or under the supervision of, the court, pay the sum of five hundred pounds to the trustee in bankruptcy or to the corporation, as the case may be; or
 - (b) if the Board are satisfied that the applicant has at all times since the beginning of the year nineteen hundred and thirty-nine been carrying on in Great Britain the business of dealing in securities, and that it would cause him undue hardship to make a deposit under this section.
- (5) In the event in which, by virtue of an undertaking given under the last preceding subsection, any sum becomes payable to a trustee in bankruptcy or to a corporation, the trustee or the corporation, as the case may be, shall have the power and duty to recover that sum from the person by whom it is payable ; but if, in a case where any sum is paid in pursuance of such an undertaking, it is found upon the administration in bankruptcy or the winding up that the assets of the bankrupt or the corporation exceed the amount required to meet his or its debts and liabilities (including the costs and expenses of the administration or winding up), the amount of the excess or the amount of the sum so paid, whichever is the less, shall be repaid by the trustee or corporation to, or to the personal representative of, the person by whom the undertaking was given.

5 Refusal and revocation of licences

Subject to the provisions of this section, the Board of Trade may refuse to grant an application for a licence or, where a licence has been granted, may revoke the licence, if—

- (1) the applicant or the holder of the licence has not, on the occasion of the application or, as the case may be, at any prescribed time during the currency of the licence, furnished to the Board such information relating to him, and to any circumstances likely to affect his method of conducting business, as may be prescribed, being information verified in such manner, whether by statutory declaration or otherwise, as the Board may require, or
- (2) it appears to the Board that—
 - (a) by reason of the applicant or the holder of the licence, or any person employed by, or associated with, the applicant or holder for the purposes of his business.
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 - (i) having been convicted within Her Majesty's dominions of an offence his conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or
 - (ii) having been convicted of an offence under this Act or the Prevention of Fraud (Investments) Act, 1939, or

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- (iii) having committed a breach of any rules made by the Board under this Act or that Act for regulating the conduct of business by holders of licences, or
 - (b) by reason of any other circumstances whatsoever which either are likely to lead to the improper conduct of business by, or reflect discredit upon the method of conducting business of, the applicant or holder or any person so employed by or associated with him as aforesaid,
- the applicant or holder is not, or, as the case may be, is no longer, a fit and proper person to hold a licence;
- and the Board may also revoke a principal's licence at any time, if the holder of the licence is not carrying on in Great Britain the business of dealing in securities.

6 References to tribunal of inquiry

- (1) Where the Board of Trade propose, in pursuance of paragraph (2) of the last preceding section, either to refuse to grant an application for a licence or to revoke a licence, the Board—
 - (a) shall serve on the applicant or the holder of the licence, as the case may be, a written notice of their intention, specifying the particular matter upon the consideration of which their decision would be based, and inviting him to notify in writing to the Board, within fourteen days from the date of the service of the notice, whether he desires his case to be referred to the tribunal of inquiry constituted under this section, and
 - (b) if he so notifies the Board that he desires his case to be so referred, shall refer the case to the said tribunal and direct the tribunal to investigate the case and report thereon to the Board, shall not make a final decision in the matter until they have received and considered the report of the tribunal, and shall not either refuse to grant the application or revoke the licence if the said report contains a recommendation by the tribunal that the licence should be granted or remain in force, as the case may be.
- (2) For the purposes of this section, there shall be a tribunal of inquiry (hereinafter referred to as "the tribunal") consisting of a chairman, and one other person appointed by the Lord Chancellor, being members of the legal profession, and one person appointed by the Treasury, being a person who appears to the Treasury to be experienced in matters of finance or accountancy and not being a person in Her Majesty's service.

A person appointed to the tribunal shall be appointed to be a member thereof for a specified period, not being less than three years, subject to such conditions with respect to the vacation of his office as may be imposed before the time of his appointment; and a person ceasing to hold office as a member of the tribunal shall be eligible for re-appointment thereto.
- (3) The Board of Trade may pay to the members of the tribunal such remuneration as the Board, with the approval of the Treasury, may determine; and such expenses of the tribunal as the Board and the Treasury may approve shall be defrayed by the Board.
- (4) Any investigation under this section shall be so conducted as to afford a reasonable opportunity for representations to be made to the tribunal by or on behalf of the person whose case is the subject of the investigation.
- (5) For the purpose of any such investigation, the tribunal may by summons require any person to attend, at such time and place as is specified in the summons, to give

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evidence or to produce any documents in his custody or under his control which the tribunal considers it necessary for the purposes of the investigation to examine, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined:

Provided that no person shall be required, in obedience, to such a summons, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him.

- (6) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this section, or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any document which he may be required to produce for the purpose of such an investigation as aforesaid, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (7) Subject to the preceding provisions of this section, the Board of Trade may make rules for regulating the procedure on any such investigation as aforesaid.

7 Rules of Board of Trade with respect to conduct of business of licensed dealers

- (1) The Board of Trade may make rules for regulating the conduct of business by holders of licences, and in particular, but without prejudice to the generality of the preceding provisions of this subsection, such rules may make provision for all or any of the following matters, that is to say:—
 - (a) for determining the class of persons in relation to whom, and the manner and circumstances in which, any holder of a licence may deal in securities;
 - (b) for prescribing forms of contracts which may be used in making contracts under the authority of a licence, and directing that where any contract is made under the authority of a licence otherwise than in the appropriate form prescribed by the rules, the holder of the licence shall, for the purposes of the preceding provisions of this Act relating to the refusal and revocation of licences, be deemed to have committed a breach of the rules;
 - (c) for prescribing the books, accounts and other documents which must be kept by the holder of a principal's licence in relation to any dealing in securities under the authority of such a licence;
 - (d) for requiring the holder of a principal's licence to produce, for inspection by, or by an agent of, the person with whom he has made any agreement by way of a dealing in securities under the authority of such a licence as aforesaid, such contract notes and vouchers as may be prescribed by the rules, and to furnish to that person, on demand and on payment of the prescribed fee, copies of entries in books kept by the holder which relate to the transaction.
- (2) A person shall not be guilty of an offence by reason only of a breach of rules made under this section.
- (3) Whenever the Board of Trade propose to make any rules under this section, they shall cause to be published, in such manner as they think best adapted for informing persons affected, notice of the intention of the Board to make the rules, specifying the place where a draft of the rules may be inspected and copies thereof obtained, and the price at which such copies will be supplied, and the time within which written objections and representations with respect to the draft rules may be made to the Board; and the Board

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shall, before making the rules, consider any such objections and representations made to them within the said time, and may make the rules with or without modification of the terms of the draft.

8 Information to be furnished to Board of Trade by holders of licences

- (1) The holder of any principal's licence shall forthwith notify in writing to the Board of Trade any change which, while the licence is in force, may occur in the address in Great Britain at which he carries on the business of dealing in securities, and, upon ceasing to carry on that business in Great Britain, shall forthwith notify that fact in writing to the Board.
- (2) If, at any time while a principal's licence granted to a corporation is in force, any person becomes a director of the corporation, the corporation shall forthwith notify in writing to the Board of Trade the name and address of that person and also his nationality or the fact that he has no nationality.
- (3) If, at any time while a representative's licence is in force, the holder of the licence leaves or enters the service of, or becomes or ceases to be an agent of, any person, he shall forthwith notify the name and address of that person in writing to the Board of Trade.
- (4) If any person fails to comply with any of the provisions of this section, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

9 Publication of names of holders of principals' licences

The Board of Trade shall cause to be published, at such times and in such manner as they think proper, the names and addresses of all holders of principals' licences for the time being in force, and also—

- (a) in relation to any holder of a principal's licence who is not a corporation, his nationality or the fact that he has no nationality, or
- (b) in relation to any holder of a principal's licence who is a corporation, the country under the law of which the corporation is incorporated,

so however that the said information shall be published not less often than once a year.