



# Financial Services Act 1986

## 1986 CHAPTER 60

### PART I

#### REGULATION OF INVESTMENT BUSINESS

#### CHAPTER III

#### AUTHORISED PERSONS

##### *Persons authorised in other member States*

### **31 Authorisation in other member State**

- (1) A person carrying on investment business in the United Kingdom is an authorised person if—
  - (a) he is established in a member State other than the United Kingdom;
  - (b) the law of that State recognises him as a national of that or another member State; and
  - (c) he is for the time being authorised under that law to carry on investment business or investment business of any particular kind.
- (2) For the purposes of this Act a person is established in a member State other than the United Kingdom if his head office is situated in that State and he does not transact investment business from a permanent place of business maintained by him in the United Kingdom.
- (3) This section applies to a person only if the provisions of the law under which he is authorised to carry on the investment business in question—
  - (a) afford to investors in the United Kingdom protection, in relation to his carrying on of that business, which is at least equivalent to that provided for them by the provisions of this Chapter relating to members of recognised self-regulating organisations or to persons authorised by the Secretary of State ; or

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- (b) satisfy the conditions laid down by a Community instrument for the co-ordination or approximation of the laws, regulations or administrative provisions of member States relating to the carrying on of investment business or investment business of the relevant kind.
- (4) A certificate issued by the Secretary of State and for the time being in force to the effect that the provisions of the law of a member State comply with the requirements of subsection (3)(a) above, either as respects all investment business or as respects investment business of a particular kind, shall be conclusive evidence of that matter but the absence or revocation of such a certificate shall not be regarded as indicating that those requirements are not complied with.
- (5) This section shall not apply to a person by virtue of paragraph (b) of subsection (3) above unless the authority by which he is authorised to carry on the investment business in question certifies that he is authorised to do so under a law which complies with the requirements of that paragraph.

### **32 Notice of commencement of business**

- (1) A person who is an authorised person by virtue of section 31 above shall be guilty of an offence unless, not less than seven days before beginning to carry on investment business in the United Kingdom, he has given notice of his intention to do so to the Secretary of State either in writing or in such other manner as the Secretary of State may approve.
- (2) The notice shall contain—
  - (a) information as to the investment business which that person proposes to carry on in the United Kingdom and the services which he will hold himself out as able to provide in the carrying on of that business ;
  - (b) information as to the authorisation of that person in the member State in question ;
  - (c) the address of a place (whether in the United Kingdom or elsewhere) for the service on that person of any notice or other document required or authorised to be served on him under this Act;
  - (d) such other information as may be prescribed ;and the notice shall comply with such requirements as to the form in which any information is to be given and as to its verification as may be prescribed.
- (3) A notice by a person claiming to be authorised by virtue of subsection 0)(b) of section 31 above shall be accompanied by a copy of the certificate required by subsection (5) of that section.
- (4) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on conviction on indictment, to a fine ;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (5) In proceedings brought against any person for an offence under subsection (1) above it shall be a defence for him to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

### **33 Termination and suspension of authorisation**

- (1) If it appears to the Secretary of State that a person who is an authorised person by virtue of section 31 above has contravened any provision of this Act or of any rules or regulations made under it or, in purported compliance with any such provision, has furnished the Secretary of State with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act the Secretary of State may direct—
  - (a) that he shall cease to be an authorised person by virtue of that section; or
  - (b) that he shall not be an authorised person by virtue of that section for a specified period or until the occurrence of a specified event or until specified conditions are complied with.
- (2) In the case of a person who is a member of a recognised self-regulating organisation the rules, prohibitions and requirements referred to in subsection (1) above include the rules of that organisation and any prohibition or requirement imposed by virtue of those rules; and in the case of a person who is certified by a recognised professional body the rules, prohibitions and requirements referred to in that subsection include the rules of that body which regulate the carrying on by him of investment business and any prohibition or requirement imposed by virtue of those rules.
- (3) Any period, event or condition specified in a direction under subsection (1)(b) above may be varied by the Secretary of State on the application of the person to whom the direction relates.
- (4) The Secretary of State shall consult the relevant supervisory authority before giving a direction under this section unless he considers it essential in the interests of investors that the direction should be given forthwith but in that case he shall consult the authority immediately after giving the direction and may then revoke or vary it if he considers it appropriate to do so.
- (5) The Secretary of State shall revoke a direction under this section if he is satisfied, after consulting the relevant supervisory authority, that it will secure that the person concerned will comply with the provisions mentioned in subsection (1) above.
- (6) In this section " the relevant supervisory authority " means the authority of the member State where the person concerned is established which is responsible for supervising the carrying on of investment business of the kind which that person is or was carrying on.

### **34 Notice of proposed termination or suspension**

- (1) Where the Secretary of State proposes—
  - (a) to give a direction under section 33 above ; or
  - (b) to refuse an application under subsection (3) of that section,he shall give the authorised person written notice of his intention to do so, stating the reasons for which he proposes to act.
- (2) In the case of a proposed direction under section 33 above the notice shall state the date on which it is proposed that the direction should take effect and, in the case of a proposed direction under subsection (1)(b) of that section, its proposed duration.
- (3) Where the reasons stated in a notice under this section relate specifically to matters which—

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- (a) refer to a person identified in the notice other than the authorised person; and
- (b) are in the opinion of the Secretary of State prejudicial to that person in any office or employment,

the Secretary of State shall, unless he considers it impracticable to do so, serve a copy of the notice on that other person.

- (4) A notice under this section shall give particulars of the right to require the case to be referred to the Tribunal under Chapter IX of this Part of this Act.
- (5) Where a case is not required to be referred to the Tribunal by a person on whom a notice is served under this section the Secretary of State shall, at the expiration of the period within which such a requirement can be made—
  - (a) give that person written notice of the direction or refusal ; or
  - (b) give that person written notice that the direction is not to be given or, as the case may be, of the grant of the application;

and the Secretary of State may give public notice of any decision notified by him under paragraph (a) or (b) above and the reasons for the decision except that he shall not do so in the case of a decision within paragraph (b) unless the person concerned consents to his doing so.