

SCHEDULES

SCHEDULE 3

Section 18.

REQUIREMENTS FOR RECOGNITION OF PROFESSIONAL BODY

Statutory status

- 1 The body must—
- (a) regulate the practice of a profession in the exercise of statutory powers ; or
 - (b) be recognised (otherwise than under this Act) for a statutory purpose by a Minister of the Crown or by, or by the head of, a Northern Ireland department; or
 - (c) be specified in a provision contained in or made under an enactment as a body whose members are qualified to exercise functions or hold offices specified in that provision.

Certification

- 2 (1) The body must have rules, practices and arrangements for securing that no person can be certified by the body for the purposes of Part I of this Act unless the following conditions are satisfied.
- (2) The certified person must be either—
- (a) an individual who is a member of the body ; or
 - (b) a person managed and controlled by one or more individuals each of whom is a member of a recognised professional body and at least one of whom is a member of the certifying body.
- (3) Where the certified person is an individual his main business must be the practice of the profession regulated by the certifying body and he must be practising that profession otherwise than in partnership; and where the certified person is not an individual that person's main business must be the practice of the profession or professions regulated by the recognised professional body or bodies of which the individual or individuals mentioned in sub-paragraph (2)(b) above are members.
- (4) In the application of sub-paragraphs (2) and (3) above to a certificate which is to be or has been issued to a partnership constituted under the law of England and Wales or Northern Ireland or the law of any other country or territory under which a partnership is not a legal person, references to the certified person shall be construed as references to the partnership.

Safeguards for investors

- 3 (1) The body must have rules regulating the carrying on of investment business by persons certified by it; and those rules must in respect of investment business of any kind regulated by them afford to investors protection at least equivalent to that

Status: This is the original version (as it was originally enacted).

afforded in respect of investment business of that kind by the rules and regulations for the time being in force under Chapter V of Part I of this Act.

- (2) The rules under that Chapter to be taken into account for the purposes of this paragraph include the rules made under section 49 and under sections 53 and 54 so far as not themselves applying to persons certified by the body

Monitoring and enforcement

- 4 (1) The body must have adequate arrangements and resources for the effective monitoring of the continued compliance by persons certified by it with the conditions mentioned in paragraph 2 above and rules, practices and arrangements for the withdrawal or suspension of certification (subject to appropriate transitional provisions) in the event of any of those conditions ceasing to be satisfied.
- (2) The body must have adequate arrangements and resources for the effective monitoring and enforcement of compliance by persons certified by it with the rules of the body relating to the carrying on of investment business and with any rules or regulations to which those persons are subject under Chapter V of Part I of this Act in respect of business of a kind regulated by the body.
- (3) The arrangements for enforcement must include provision for the withdrawal or suspension of certification and may include provision for disciplining members of the body who manage or control a certified person.
- (4) The arrangements for enforcement may make provision for the whole or part of that function to be performed by and to be the responsibility of a body or person independent of the professional body.
- (5) The arrangements for enforcement must be such as to secure a proper balance between the interests of persons certified by the body and the interests of the public ; and the arrangements shall not be regarded as satisfying that requirement unless the persons responsible for enforcement include a sufficient number of persons who are independent of the body and its members and of persons certified by it
- (6) The arrangements for monitoring may make provision for that function to be performed on behalf of the body (and without affecting its responsibility) by any other body or person who is able and willing to perform it.

Investigation of complaints

- 5 (1) The body must have effective arrangements for the investigation of complaints relating to—
- (a) the carrying on by persons certified by it of investment business in respect of which they are subject to its rules; and
 - (b) its regulation of investment business.
- (2) Paragraph 4(4) above applies also to arrangements made pursuant to this paragraph.

Promotion and maintenance of standards

- 6 The body must be able and willing to promote and maintain high standards of integrity and fair dealing in the carrying on of investment business and to co-operate, by the sharing of information and otherwise, with the Secretary of State

and any other authority, body or person having responsibility for the supervision or regulation of investment business or other financial services.