Companies Act 1989

1989 CHAPTER 40

PART VIII

AMENDMENTS OF THE FINANCIAL SERVICES ACT 1986

194 Application of designated rules and regulations to members of self-regulating organisations

In Chapter V of Part I of the Financial Services Act 1986 (conduct of investment business), after section 63 insert—

"**63A Application of designated rules and regulations to members of self-regulating organisations**

(1) The Secretary of State may in rules and regulations under—

(a) section 48 (conduct of business rules),

(b) section 49 (financial resources rules),

(c) section 55 (clients' money regulations), or

(d) section 56 (regulations as to unsolicited calls),

designate provisions which apply, to such extent as may be specified, to a member of a recognised self-regulating organisation in respect of investment business in the carrying on of which he is subject to the rules of the organisation.

(2) It may be provided that the designated rules or regulations have effect, generally or to such extent as may be specified, subject to the rules of the organisation.

(3) A member of a recognised self-regulating organisation who contravenes a rule or regulation applying to him by virtue of this section shall be treated as having contravened the rules of the organisation.

(4) It may be provided that, to such extent as may be specified, the designated rules or regulations may not be modified or waived (under section 63B below or section 50) in relation to a member of a recognised self-regulating organisation.

Where such provision is made any modification or waiver previously granted shall cease to have effect, subject to any transitional provision or saving contained in the rules or regulations.

(5) Except as mentioned in subsection (1), the rules and regulations referred to in that subsection do not apply to a member of a recognised self-regulating organisation in respect of investment business in the carrying on of which he is subject to the rules of the organisation.

63B Modification or waiver of designated rules and regulations

(1) A recognised self-regulating organisation may on the application of a member of the organisation—

(a) modify a rule or regulation designated under section 63A so as to adapt it to his circumstances or to any particular kind of business carried on by him, or

(b) dispense him from compliance with any such rule or regulation, generally or in relation to any particular kind of business carried on by him.

(2) The powers conferred by this section shall not be exercised unless it appears to the organisation—

(a) that compliance with the rule or regulation in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on investors, and

(b) that the exercise of those powers will not result in any undue risk to investors.

(3) The powers conferred by this section may be exercised unconditionally or subject to conditions; and section 63A(3) applies in the case of a contravention of a condition as in the case of contravention of a designated rule or regulation.

(4) The reference in paragraph 4(1) of Schedule 2 (requirements for recognition of self-regulating organisations) to monitoring and enforcement of compliance with rules and regulations includes monitoring and enforcement of compliance with conditions imposed by the organisation under this section.”.