

SCHEDULES

SCHEDULE 2

INVESTMENT CONTRACTS

PART 3

FURTHER PROVISION ABOUT AN INVESTMENT CONTRACT COUNTERPARTY AND A CFD COUNTERPARTY

Duties and liabilities of an investment contract counterparty and a CFD counterparty

- 14 (1) An investment contract counterparty and a CFD counterparty must act in accordance with—
- (a) any direction given by the Secretary of State by virtue of this Schedule;
 - (b) any provision included in regulations.
- (2) An investment contract counterparty and a CFD counterparty must exercise the functions conferred by or by virtue of this Schedule to ensure that it can meet its liabilities under any investment contract to which it is a party.
- (3) Regulations may make provision—
- (a) to require an investment contract counterparty or a CFD counterparty to enter into arrangements or to offer to contract for purposes connected to an investment contract;
 - (b) specifying things that an investment contract counterparty or a CFD counterparty may or must do, or things that an investment contract counterparty or CFD counterparty may not do;
 - (c) conferring on the Secretary of State further powers to direct an investment contract counterparty or CFD counterparty to do, or not to do, things specified in the regulations or the direction.
- (4) Provision made by virtue of sub-paragraph (3)(b) or (c) includes provision requiring consultation with, or the consent of, the Secretary of State in relation to—
- (a) the enforcement of obligations under an investment contract;
 - (b) a variation or termination of an investment contract;
 - (c) the settlement or compromise of a claim under an investment contract;
 - (d) the conduct of legal proceedings relating to an investment contract;
 - (e) the exercise of rights under an investment contract.
- (5) Regulations must include such provision as the Secretary of State considers necessary to ensure that an investment contract counterparty or a CFD counterparty can meet its liabilities under any investment contract to which it is a party.

Status: This is the original version (as it was originally enacted).

Shadow directors, etc.

- 15 The Secretary of State is not, by virtue of the exercise of a power conferred by or by virtue of this Schedule, to be regarded as—
- (a) a person occupying in relation to an investment contract counterparty or a CFD counterparty the position of director;
 - (b) being a person in accordance with whose directions or instructions the directors of an investment contract counterparty or a CFD counterparty are accustomed to act;
 - (c) exercising any function of management in an investment contract counterparty or a CFD counterparty;
 - (d) a principal of an investment contract counterparty or a CFD counterparty.