
STATUTORY INSTRUMENTS

1995 No. 3275

The Investment Services Regulations 1995

PART VIII

MISCELLANEOUS

Restrictions on disclosure of information

48.—(1) This paragraph applies to any confidential information which—

- (a) any person who works or has worked for any person designated by the United Kingdom as a competent authority for the purposes of Article 22 of the Investment Services Directive or Article 9 of the Capital Adequacy Directive; or
- (b) any auditor or expert instructed by such an authority,

has received in the course of discharging his duties as such a person, auditor or expert in relation to an investment firm having its head or registered office in an EEA State.

(2) Section 179 of the Financial Services Act shall not apply to information to which paragraph (1) above applies.

(3) Information to, which paragraph (1) above applies shall not be disclosed by any person referred to in sub-paragraph (a) or (b) of that paragraph, or by any person receiving it directly or indirectly from such a person, except in any of the circumstances specified in Article 25 of the Investment Services Directive, the text of which is set out in Schedule 8 to these Regulations; and for these purposes such information—

- (a) may, subject to the provisions of paragraph (5) below, be disclosed in the circumstances described in Article 25.8 of the Investment Services Directive; and
- (b) may, until 2nd July 1996, be disclosed in the circumstances described in Article 25.9 of that Directive.

(4) Information received under Article 25.2 of the Investment Services Directive may not be communicated in the circumstances referred to in Article 25.7 of that Directive without the express consent of the supervisory authority from whom it was obtained.

(5) Information of the kind described in the third paragraph of Article 25.8 of the Investment Services Directive may not be disclosed in the cases referred to in Article 25.8 except with the express consent of whichever is relevant of the authorities mentioned in the third paragraph of Article 25.8.

(6) Information which is obtained from the supervisory authorities of another EEA State may not be disclosed for any of the purposes mentioned in the first paragraph of Article 25.9 of the Investment Services Directive without the express consent of the authorities that disclosed the information; and such information may be used only for the purposes that caused those authorities to agree to disclose it.

(7) Any person who contravenes any provision of this regulation shall be guilty of an offence and liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

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- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.
- (8) Proceedings in respect of an offence under this Regulation shall not be instituted—
 - (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions; or
 - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (9) In proceedings brought against any person for an offence under this regulation, 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.