SCHEDULE 2 Regulations 23 and 24

CONDITIONS FOR PERMITTED DISCLOSURE

PART 1

DISCLOSURE TO SPECIFIED PUBLIC AUTHORITY

1. Paragraphs 2 and 3 set out the conditions specified for the disclosure of protected information by the registrar to a specified public authority.

2. The specified public authority has delivered to the registrar a statement that it intends to use the protected information only for the purpose of facilitating the carrying out by that specified public authority of a public function ("the permitted purpose").

3. Subject to paragraph 4, the specified public authority ("the authority") has delivered to the registrar a statement that it will, where it supplies a copy of the protected information to a processor for the purpose of processing the information for use in respect of the permitted purpose—

(a) ensure that the processor is one who carries on business in the European Economic Area;

(b) require that the information is not transmitted outside the European Economic Area by the processor; and

(c) require that the processor does not disclose the information except to the authority or an employee of the authority.

4. Paragraph 3 does not apply where the specified public authority is the Secret Intelligence Service, Security Service or Government Communications Headquarters.

PART 2

DISCLOSURE TO CREDIT REFERENCE AGENCY

5. Paragraphs 6 to 10 set out the conditions specified for the disclosure of protected information by the registrar to a credit reference agency.

6. The credit reference agency—

(a) is carrying on in the United Kingdom or in another EEA State a business comprising the furnishing of information relevant to the financial standing of individuals, being information collected by the agency for that purpose;

(b) maintains appropriate procedures—

(i) to ensure that an independent person can investigate and audit the measures maintained by the agency for the purposes of ensuring the security of any protected information disclosed to that agency; and

(ii) for the purposes of ensuring that it complies with its obligations under the Data Protection Act 1998(**1**), or, where the agency carries on business in a EEA State other than the United Kingdom, with its obligations under legislation implementing Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data(**2**);

(**1**) 1998 c.29.
(**2**) OJ L 281, 23.11.1995, p. 31.

(c) has not been found guilty of an offence under—

(i) section 1112 (general false statement offence) of the Companies Act 2006 or section 2 of the Fraud Act 2006(**3**) (fraud by false representation); or

(ii) section 47 (failure to comply with enforcement notice) of the Data Protection Act 1998 in circumstances where it has used the protected information for purposes other than those described in sub-paragraphs (a) to (e) of paragraph 7 below.

7. The credit reference agency has delivered to the registrar a statement that it intends to use that protected information only for the purposes of—

(a) providing an assessment of the financial standing of a person;

(b) meeting any obligations contained in the Money Laundering Regulations 2007(**4**) or any rules made pursuant to section 146 of the Financial Services and Markets Act 2000(**5**) (money laundering rules), or in any legislation of another EEA State implementing Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing(**6**);

(c) conducting conflict of interest checks required or made necessary by any enactment;

(d) the provision of protected information to—

(i) a public authority specified in Schedule 1 which has satisfied the requirements of paragraphs 2 and 3 of this Schedule; or

(ii) a credit reference agency which has satisfied the requirements of this Part of this Schedule; or

(e) conducting checks for the prevention and detection of crime and fraud.

8. The credit reference agency has delivered to the registrar a statement that it intends to take delivery of and to use the protected information only in the United Kingdom or in another EEA State.

9. The credit reference agency has delivered to the registrar a statement that it will, where it supplies a copy of the protected information to a processor for the purpose of processing the information for use in respect of the purposes referred to in paragraph 7—

(a) ensure that the processor is one who carries on business in the European Economic Area;

(b) require that the information is not transmitted outside the European Economic Area by the processor; and

(c) require that the processor does not disclose the information except to the credit reference agency or an employee of the credit reference agency.

10. The credit reference agency has delivered to the registrar a statement that it meets the conditions in paragraph 6 above.

PART 3

INTERPRETATION OF THIS SCHEDULE

11.—(1) In this Schedule—

(**3**) 2006 c.35.
(**4**) S.I. 2007/2157.
(**5**) Section 146 enables the making of rules by the Financial Services Authority in relation to the prevention and detection of money laundering in connection with the carrying on of regulated activities by authorised persons.
(**6**) OJ L 309, 25.11.2005, p. 15.

"processor" means any person who provides a service which consists of putting information into data form or processing information in data form, and any reference to a processor includes a reference to the processor's employees; and

"public function" includes—

(a) any function conferred by or in accordance with any provision contained in any enactment;

(b) any function conferred by or in accordance with any provision contained in the Community Treaties or any Community instrument;

(c) any similar function conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom; and

(d) any function exercisable in relation to the investigation of any criminal offence or for the purpose of any criminal proceedings.

(2) In this Schedule any reference to—

(a) an employee of any person who has access to protected information shall be deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service; and

(b) the disclosure for the purpose of facilitating the carrying out of a public function includes disclosure in relation to, and for the purpose of, any proceedings whether civil, criminal or disciplinary in which the specified public authority engages while carrying out its public functions.