

## SCHEDULE 2

### FINANCIAL SERVICES

#### PART 1

##### Decisions referred to at Articles 3(b) and 5(c)

1. Any decision by the Financial Services Authority—
  - (a) to refuse an application for Part IV permission under the 2000 Act;
  - (b) to vary or to cancel such permission (or to refuse to vary or cancel such permission) or to impose a requirement under section 43 of that Act;
  - (c) to make, or to refuse to vary or revoke, an order under section 56 (prohibition orders) of that Act;
  - (d) to refuse an application for the Financial Services Authority's approval under section 59 of that Act or to withdraw such approval;
  - (e) to refuse to make, or to revoke, an order declaring a unit trust scheme to be an authorised unit trust scheme under section 243(1) of the 2000 Act or to refuse to give its approval under section 251(2) of the 2000 Act to a proposal to replace the manager or trustee of such a scheme;
  - (f) to give a direction under section 257(3) (authorised unit trust schemes) of the 2000 Act, or to vary (or to refuse to vary or revoke) such a direction;
  - (g) to refuse to make, or to revoke, an authorisation order under regulation 14 of the Open-Ended Investment Companies Regulations 2001(4) or to refuse to give its approval under regulation 21(5) of those Regulations to a proposal to replace a director or to appoint an additional director of an open-ended investment company;
  - (h) to give a direction to an open-ended investment company under regulation 25 of those Regulations or to vary (or refuse to vary or revoke) such a direction;
  - (i) to refuse to give its approval to a collective investment scheme being recognised under section 270 of the 2000 Act or to direct that such a scheme cease to be recognised by virtue of that section or to refuse to make, or to revoke an order declaring a collective investment scheme to be a recognised scheme under section 272 of that Act;
  - (j) to refuse to make, or to revoke, a recognition order under section 290(6) of the 2000 Act, otherwise than by virtue of section 292(2) of that Act, or to give a direction to a UK recognised investment exchange or UK recognised clearing house under section 296(7) of the 2000 Act;

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(1) Section 243 was amended by the Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), regulation 2(15).

(2) Section 251 was amended by the Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), regulation 2(17).

(3) Section 243 was amended by the Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), regulation 2(20).

(4) S.I. 2001/1228. Regulation 14 was amended by the Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), regulation 3(2).

(5) Regulation 21 was amended by the Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), regulation 3(3); and by the Open-Ended Investment Companies (Amendment) Regulations 2011 (S.I. 2011/3049), regulation 3(4).

(6) Section 290 was amended by the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), Schedule 2, paragraph 4.

(7) Section 296 was amended by the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), Schedule 2, paragraph 7.

**Draft Legislation:** This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, *The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013* ISBN 978-0-11-101908-5

- (k) to make, or to refuse to vary or to revoke, an order under section 329 of the 2000 Act (orders in respect of members of a designated professional body in relation to the general prohibition);
- (l) to dismiss, fail to promote or exclude a person from being a key worker of the Financial Services Authority;
- (m) to refuse an application for registration as an authorised electronic money institution or a small electronic money institution under the Electronic Money Regulations 2011;
- (n) to vary or cancel such registration (or to refuse to vary or cancel such registration) or to impose a requirement under regulation 7 of the Electronic Money Regulations 2011;
- (o) to refuse an application for registration as an authorised payment institution or a small payment institution under the Payment Services Regulations 2009; or
- (p) to vary or cancel such registration (or to refuse to vary or cancel such registration) or to impose a requirement under regulation 7 of the Payment Services Regulations 2009,

by reason of, or partly by reason of, a spent conviction of an individual, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.

2. Any decision by the scheme operator within the meaning of section 225 of the 2000 Act of the Financial Ombudsman Service to dismiss, or not to appoint an individual as, an ombudsman within the meaning of Schedule 17 to the 2000 Act of the Financial Ombudsman Service by reason of, or partly by reason of, his spent conviction, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.

3. Any decision of the competent authority for listing—

- (a) to refuse an application for listing under Part VI of the 2000 Act or to discontinue or suspend the listing of any securities under section 77 of that Act<sup>(8)</sup>;
- (b) to refuse to grant a person's application for approval as a sponsor under section 88<sup>(9)</sup> of the 2000 Act or to cancel such approval; or
- (c) to dismiss, fail to promote or exclude a person from being a key worker of the competent authority for listing,

by reason of, or partly by reason of, a spent conviction of an individual, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.

4. Any decision of anyone who is specified in any of paragraphs 2 to 7 of the second column of the table in Part 2 of this Schedule, other than the Financial Services Authority, to dismiss an individual who has, or to fail to promote or exclude an individual who is seeking to obtain, the status specified in the corresponding entry in the first column of that table (but not, where applicable, the status of being an associate of another person), by reason of, or partly by reason of, a spent conviction of that individual or of that individual's associate, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.

5. Any decision of anyone who is specified in paragraphs 8(1) or 16(1) of the second column of the table in Part 2 of this Schedule to dismiss an individual who has, or to fail to promote or exclude an individual who is seeking to obtain, the status specified in the corresponding entry in sub-paragraph (2) of the first column of that table (associate), by reason of, or partly by reason of,

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<sup>(8)</sup> Section 77 was amended by the [Regulatory Reform \(Financial Services and Markets Act 2000\) Order 2007 \(S.I. 2007/1973\)](#), article 5.

<sup>(9)</sup> Section 88 was amended by the [Regulatory Reform \(Financial Services and Markets Act 2000\) Order 2007 \(S.I. 2007/1973\)](#), article 9.

a spent conviction of that individual, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.

6. Any decision of the Council of Lloyd's—

- (a) to refuse to admit any person as, or to exclude, an underwriting agent (within the meaning of section 2 of the Lloyd's Act 1982<sup>(10)</sup>), where that person has, or has applied for, Part IV permission;
- (b) to dismiss any person who is, or to fail to promote or exclude an individual who is seeking to become, an associate of a person who has Part IV permission and is admitted to Lloyd's as an underwriting agent (within the meaning of section 2 of the Lloyd's Act 1982; or
- (c) to dismiss, or to exclude a person from being, an associate of the Council of Lloyd's,

by reason of, or partly by reason of, a spent conviction of an individual, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.

7. Any decision of a UK recognised investment exchange or UK recognised clearing house to refuse to admit any person as, or to exclude, a member by reason of, or partly by reason of, a spent conviction of an individual, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.

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(10) 1982 c.xiv.