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# Financial Services Act 1986 (Repealed)

## 1986 CHAPTER 60

### PART I

#### REGULATION OF INVESTMENT BUSINESS

### CHAPTER III

#### AUTHORISED PERSONS

##### *Persons authorised by the Secretary of State*

#### **25 Authorisation by Secretary of State.**

A person holding an authorisation granted by the Secretary of State under the following provisions of this Chapter is an authorised person.

#### **26 Applications for authorisation.**

- (1) An application for authorisation by the Secretary of State may be made by—
  - (a) an individual;
  - (b) a body corporate;
  - (c) a partnership; or
  - (d) an unincorporated association.
- (2) Any such application—
  - (a) shall be made in such manner as the Secretary of State may direct;
  - (b) shall contain or be accompanied by—
    - (i) information as to the investment business which the applicant proposes to carry on and the services which he will hold himself out as able to provide in the carrying on of that business; and

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- (ii) such other information as the Secretary of State may reasonably require for the purpose of determining the application; and
  - (c) shall contain the address of a place in the United Kingdom for the service on the applicant of any notice or other document required or authorised to be served on him under this Act.
- (3) At any time after receiving an application and before determining it the Secretary of State may require the applicant to furnish additional information.
  - (4) The directions and requirements given or imposed under subsections (2) and (3) above may differ as between different applications.
  - (5) Any information to be furnished to the Secretary of State under this section shall, if he so requires, be in such form or verified in such manner as he may specify.

**Modifications etc. (not altering text)**

- C1** S. 26 amended (1.1.1993) by S.I. 1992/3218, **reg. 49**.  
s. 26 extended (1.1.1996) by S.I. 1995/3275, **reg. 22**
- C2** S. 26(2)(5) applied (with modifications) (12.2.1992) by S.I. 1992/225, **reg. 95(2)**.

**27 Grant and refusal of authorisation.**

- (1) The Secretary of State may, on an application duly made in accordance with section 26 above and after being furnished with all such information as he may require under that section, grant or refuse the application.
- (2) The Secretary of State shall grant the application if it appears to him from the information furnished by the applicant and having regard to any other information in his possession that the applicant is a fit and proper person to carry on the investment business and provide the services described in the application.
- (3) In determining whether to grant or refuse an application the Secretary of State may take into account any matter relating to any person who is or will be employed by or associated with the applicant for the purposes of the business in question, to any person who is or will be acting as an appointed representative in relation to that business and—
  - (a) if the applicant is a body corporate, to any director or controller of the body, to any other body corporate in the same group or to any director or controller of any such other body corporate;
  - (b) if the applicant is a partnership, to any of the partners;
  - (c) if the applicant is an unincorporated association, to any member of the governing body of the association or any officer or controller of the association.
- (4) In determining whether to grant or refuse an application the Secretary of State may also have regard to any business which the applicant proposes to carry on in connection with his investment business.
- (5) In the case of an applicant who is authorised to carry on investment business in a member State other than the United Kingdom the Secretary of State shall have regard to that authorisation.
- (6) An authorisation granted to a partnership—

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- (a) shall be granted in the partnership name; and
- (b) shall authorise the carrying on of investment business in that name (or with the Secretary of State's consent in any other name) by the partnership to which the authorisation is granted, by any partnership which succeeds to that business or by any person who succeeds to that business having previously carried it on in partnership;

and, in relation to an authorisation granted to a partnership constituted under the law of England and Wales or Northern Ireland or the law of any other country or territory under which a partnership is not a legal person, references in this Act to the holder of the authorisation or the authorised person shall be construed as references to the persons or person for the time being authorised by the authorisation to carry on investment business as mentioned in paragraph (b) above.

- (7) An authorisation granted to an unincorporated association shall apply to the carrying on of investment business in the name of the association and in such manner as may be specified in the authorisation.
- (8) The Secretary of State shall give an applicant for authorisation written notice of the grant of authorisation specifying the date on which it takes effect.

#### **Modifications etc. (not altering text)**

- C3** S. 27 amended (1.1.1993) by S.I. 1992/3218, **reg.50**.  
s. 27 extended by S.I. 1995/3275, **reg. 23(1)(2)**  
s. 27 applied (with modifications) (18.7.1996) by S.I. 1996/1669, **reg. 9(1)**

## **28 Withdrawal and suspension of authorisation.**

- (1) The Secretary of State may at any time withdraw or suspend any authorisation granted by him if it appears to him—
  - (a) that the holder of the authorisation is not a fit and proper person to carry on the investment business which he is carrying on or proposing to carry on; or
  - (b) without prejudice to paragraph (a) above, that the holder of the authorisation has contravened any provision of this Act or any rules or regulations made under it or, in purported compliance with any such provision, has furnished the Secretary of State with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act.
- (2) For the purposes of subsection (1)(a) above the Secretary of State may take into account any such matters as are mentioned in section 27(3) and (4) above.
- (3) Where the holder of the authorisation is a member of a recognised self-regulating organisation the rules, prohibitions and requirements referred to in paragraph (b) of subsection (1) above include the rules of that organisation and any prohibition or requirement imposed by virtue of those rules; and where he is a person certified by a recognised professional body the rules, prohibitions and requirements referred to in that paragraph include the rules of that body which regulate the carrying on by him of investment business and any prohibition or requirement imposed by virtue of those rules.
- (4) The suspension of an authorisation shall be for a specified period or until the occurrence of a specified event or until specified conditions are complied with; and while an authorisation is suspended the holder shall not be an authorised person.

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- (5) Any period, event or conditions specified under subsection (4) above in the case of an authorisation may be varied by the Secretary of State on the application of the holder.

**Modifications etc. (not altering text)**

- C4 S. 28: certain functions of the Secretary of State made exercisable jointly by the Secretary of State and the Treasury (7.6.1992) by S.I. 1992/1315, art. 4, **Sch. 2 para. 4(c)**.
- C5 S. 28 applied (with modifications) (18.7.1996) by S.I. 1996/1669, **reg. 9(2)** s. 28(1)(a) modified (1.1.1996) by S.I. 1995/3275, **reg. 32, Sch. 7 para. 5**
- C6 S. 28(1)(a) amended (1.1.1993) by S.I. 1992/3218, **reg. 55, Sch. 9 para.5.**

**29 Notice of proposed refusal, withdrawal or suspension.**

- (1) Where the Secretary of State proposes—
- (a) to refuse an application under section 26 or 28(5) above; or
  - (b) to withdraw or suspend an authorisation,
- he shall give the applicant or the authorised person written notice of his intention to do so, stating the reasons for which he proposes to act.
- (2) In the case of a proposed withdrawal or suspension the notice shall state the date on which it is proposed that the withdrawal or suspension should take effect and, in the case of a proposed suspension, its proposed duration.
- (3) Where the reasons stated in a notice under this section relate specifically to matters which—
- (a) refer to a person identified in the notice other than the applicant or the holder of the authorisation; and
  - (b) are in the opinion of the Secretary of State prejudicial to that person in any office or employment,
- the Secretary of State shall, unless he considers it impracticable to do so, serve a copy of the notice on that person.
- (4) A notice under this section shall give particulars of the right to require the case to be referred to the Tribunal under Chapter IX of this Part of this Act.
- (5) Where a case is not required to be referred to the Tribunal by a person on whom a notice is served under this section the Secretary of State shall, at the expiration of the period within which such a requirement can be made—
- (a) give that person written notice of the refusal, withdrawal or suspension; or
  - (b) give that person written notice of the grant of the application or, as the case may be, written notice that the authorisation is not to be withdrawn or suspended;
- and the Secretary of State may give public notice of any decision notified by him under paragraph (a) or (b) above and the reasons for the decision except that he shall not do so in the case of a decision notified under paragraph (b) unless the person concerned consents to his doing so.

**Modifications etc. (not altering text)**

- C7 S. 29 applied (with modifications) (12.2.1992) by S.I. 1992/225, **reg. 96(5)(6)**.

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s. 29(1) modified (1.1.1996) by S.I. 1995/3275, **reg. 17(9)(a)**

s. 29(4) modified (1.1.1996) by S.I. 1995/3275, **reg. 17(9)(b)**

S. 29: certain functions of the Secretary of State made exercisable jointly by the Secretary of State and the Treasury (7.6.1992) by S.I. 1992/1315, art. 4, **Sch. 2 para. 4(c)**.

### **30 Withdrawal of applications and authorisations by consent.**

- (1) An application under section 26 above may be withdrawn before it is granted or refused; and, subject to subsections (2) and (3) below, an authorisation granted under section 27 above may be withdrawn by the Secretary of State at the request or with the consent of the authorised person.
- (2) The Secretary of State may refuse to withdraw any such authorisation if he considers that the public interest requires any matter affecting the authorised person to be investigated as a preliminary to a decision on the question whether the Secretary of State should in respect of that person exercise his powers under section 28 above or under any other provision of this Part of this Act.
- (3) The Secretary of State may also refuse to withdraw an authorisation where in his opinion it is desirable that a prohibition or restriction should be imposed on the authorised person under Chapter VI of this Part of this Act or that a prohibition or restriction imposed on that person under that Chapter should continue in force.
- (4) The Secretary of State may give public notice of any withdrawal of authorisation under subsection (1) above.

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