

SCHEDULE 2

Regulation 26.

“[SCHEDULE 2B
TO 1982 ACT]

RESTRICTION ON DISCLOSURE OF INFORMATION

PART I

INFORMATION RELATING TO UK, EC AND NON-EC COMPANIES

Restriction on disclosure

(1) Subject to the following provisions of this Part of this Schedule, information which—

- (a) is restricted information for the purposes of this paragraph; and
- (b) relates to the business or other affairs of a relevant person,

shall not be disclosed without the consent of the person from whom the information was obtained and, if different, the person to whom it relates.

(2) Subject to sub-paragraph (3) below, information is restricted information for the purposes of this paragraph if it was obtained by the Secretary of State for the purposes of, or in the discharge of, functions under this Act or any rules or regulations made under this Act (whether or not by virtue of any requirement to supply it made under those provisions).

(3) Information is not restricted information for the purposes of this paragraph if—

- (a) it has been made available to the public from other sources, or
- (b) it is information in the form of a summary or is information so framed as not to enable information relating to any particular person to be ascertained from it.

(4) The following are relevant persons for the purposes of this paragraph, namely—

- (a) any UK, EC or non-EC company; and
- (b) any controller, manager, chief executive, general representative, agent or employee of such a company.

(5) Any person who discloses information in contravention of this paragraph shall be guilty of an offence and liable—

- (a) on conviction or indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both.

Disclosure for facilitating discharge of functions by Secretary of State

2. Paragraph 1 above does not preclude the disclosure of information in any case in which disclosure is for the purpose of enabling or assisting the Secretary of State to discharge his functions under this Act or any rules or regulations made under this Act (whether or not by virtue of any requirement to supply it made under those provisions).

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Disclosure for facilitating discharge of functions by other regulatory authorities

(1) Paragraph 1 above does not preclude the disclosure by the Secretary of State to any person specified in the first column of the following Table if the Secretary of State considers that the disclosure would enable or assist that person to discharge the functions specified in relation to him in the second column of that Table.

TABLE

Person	Functions
1 The Secretary of State.	Functions under the Companies Act, the Company Securities (Insider Dealing) Act 1985 (1) , the Insolvency Act 1986 (2) , the Company Directors Disqualification Act 1986 (3) , the Financial Services Act 1986 (4) , or Part II, III or VII of the Companies Act 1989 (5) .
2 The Treasury.	Functions under the Financial Services Act 1986 or under Part III or VII of the Companies Act 1989.
3 An inspector appointed under Part XIV of the Companies Act or section 94 or 177 of the Financial Services Act 1986.	Functions under that Part or that section.
4 A person authorised to exercise powers under section 43A or 44 above, section 447 of the Companies Act, section 106 of the Financial Services Act 1986 or section 84 of the Companies Act 1989.	Functions under that section.
5 The Friendly Societies Commission, the Registrar of Friendly Societies for Northern Ireland and the Assistant Registrar of Friendly Societies for Scotland.	Functions under the enactments relating to friendly societies or under the Financial Services Act 1986.
6 The Industrial Assurance Commissioner or the Industrial Assurance Commissioner for Northern Ireland.	Functions under the enactments relating to industrial assurance.
7 The Building Societies Commission.	Functions under the Building Societies Act 1986 (6) and protecting the interests of the shareholders and depositors of building societies.
8 The Director General of Fair Trading.	Functions under the Fair Trading Act 1973 (7) except Part II, the Consumer Credit Act 1974 (8) , the Restrictive Trade Practices Act 1976 (9) , the Estate Agents Act 1979 (10) , the Competition Act 1980 (11)

(1) 1985 c. 8.
(2) 1986 c. 45.
(3) 1986 c. 46.
(4) 1986 c. 60.
(5) 1989 c. 40.
(6) 1986 c. 53.
(7) 1973 c. 41.
(8) 1974 c. 39.
(9) 1976 c. 34.
(10) 1979 c. 38.
(11) 1980 c. 21.

Person	Functions
	or the Control of Misleading Advertisements Regulations 1988(12).
9 A designated agency (within the meaning of the Financial Services Act 1986).	Functions under that Act or Part VII of the Companies Act 1989.
10 A transferee body (within the meaning of the Financial Services Act 1986) or the competent authority (within the meaning of that Act).	Functions under that Act.
11 Any of the following (within the meaning of the Financial Services Act 1986), namely, a recognised self-regulating organisation, a recognised investment exchange, a recognised professional body and a recognised clearing house.	Functions in its capacity as a recognised self-regulating organisation, recognised investment exchange, recognised professional body or a recognised clearing house.
12 The Department of Economic Development in Northern Ireland.	Functions under enactments relating to companies or insolvency.
13 An inspector appointed by the Department of Economic Development in Northern Ireland under enactments relating to companies or insolvency.	Functions under those enactments.
14 A person authorised to exercise powers under Article 440 of the Companies (Northern Ireland) Order 1986(13) or section 84 of the Companies Act 1989(14).	Functions under that Article or section.
15 An official receiver.	Functions under enactments relating to insolvency.
16 The Panel on Take-overs and Mergers.	All functions.
17 The Bank of England.	All functions.
18 A body administering a scheme under section 54 of the Financial Services Act 1986.	Functions under the scheme.
19 A body established by order under section 46 of the Companies Act 1989.	Functions under Part II of that Act.
20 A supervisory body (as defined in section 30 of the Companies Act 1989) or a qualifying body (as defined in section 32 of that Act).	Functions under that Act.
21 The Occupational Pensions Board.	Functions in respect of insurance companies or other credit and financial institutions.
22 The Council of Lloyd's, the Committee of Lloyd's or the Disciplinary Committee or Appeal Tribunal established under the Lloyd's Act 1982(15).	Functions under the Lloyd's Acts 1871 to 1982 and functions under bye-laws made under those Acts.
23 The Tribunal under the Prevention of Fraud (Investments) Act 1958(16).	Functions under that Act.

(12) S.I. 1988/915.

(13) S.I. 1986/1032 (N.I.6).

(14) 1989 c. 40.

(15) 1982 c.xiv.

(16) 1958 c. 45.

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Person	Functions
24 The Monopolies and Mergers Commission.	Functions under the Fair Trading Act 1973 and the Competition Act 1980.
25 An auditor appointed under rules made under section 107 of the Financial Services Act 1986 or a person approved under section 108 of that Act.	All functions.

(2) Paragraph 1 above does not preclude the disclosure by any person specified in the first column of the Table in sub-paragraph (1) above of information obtained by him by virtue of that sub-paragraph if he makes the disclosure—

- (a) with the consent of the Secretary of State; and
- (b) for the purpose of enabling or assisting him to discharge any functions specified in relation to him in the second column of that Table;

and before deciding whether to give consent to such a disclosure by any person the Secretary of State shall take account of any representations made by that person as to the desirability of or the necessity for the disclosure.

(3) Paragraph 1 above does not preclude—

- (a) the disclosure of information to the Treasury; or
- (b) the disclosure of information to the Secretary of State for purposes other than those specified in relation to him in sub-paragraph (1) above,

if (in either case) disclosure is in accordance with Article 16(6) of the third general insurance Directive, or Article 15(6) of the third long term insurance Directive.

(4) Paragraph 1 above does not preclude the disclosure of information for the purpose of enabling or assisting any public or other authority not specified in the first column of the Table in sub-paragraph (1) above to discharge any functions if disclosure is in accordance with Article 16 of the third general insurance Directive, or Article 15 of the third long term insurance Directive.

(5) Paragraph 1 above does not preclude the disclosure of information for the purpose of enabling or assisting an authority in a country or territory outside the United Kingdom to exercise functions corresponding to those of—

- (a) the Bank of England;
- (b) the Secretary of State under this Act or the Financial Services Act 1986;
- (c) the designated agency under that Act or rules or regulations made under that Act; or
- (d) the competent authority under Part IV of that Act.

(6) Sub-paragraph (5) above does not apply in relation to disclosure to an authority which is not an authority in another member State unless the Secretary of State is satisfied that the authority is subject to restrictions on further disclosures at least equivalent to those imposed by this Part of this Schedule.

(7) Information which is disclosed to a person in pursuance of sub-paragraph (1) or (2) above shall not be used otherwise than for the purpose mentioned in that sub-paragraph.

(8) Any person who uses information in contravention of sub-paragraph (7) above shall be liable 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.

(9) Any reference in this paragraph to enabling or assisting any person to discharge or exercise any functions is a reference to enabling or assisting that person to discharge or exercise those functions in relation to—

- (a) a financial market; or

(b) persons carrying on the business of banking or insurance, Consumer Credit Act businesses or the business of providing other financial services;
and in this sub-paragraph “Consumer Credit Act business” has the same meaning as in the Banking Coordination (Second Council Directive) Regulations 1992⁽¹⁷⁾.

Other permitted disclosures

- (1) Paragraph 1 above does not preclude the disclosure of information—
- (a) for the purpose of enabling or assisting the Deposit Protection Board to discharge its functions under the Banking Act 1987⁽¹⁸⁾;
 - (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Act or otherwise;
 - (c) for the purpose of enabling or assisting the Council of the Stock Exchange to discharge its functions in relation to insurance companies;
 - (d) with a view to the institution of, or otherwise for the purposes of, proceedings under section 6, 7 or 8 of the Company Directors Disqualification Act 1986⁽¹⁹⁾ in respect of a director or former director of an insurance company;
 - (e) with a view to the institution of, or otherwise for the purposes of, any civil proceedings arising under or by virtue of the Financial Services Act 1986 or proceedings before the Financial Services Tribunal, if those proceedings relate to an insurance company;
 - (f) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise by an auditor or actuary of his professional duties;
 - (g) in pursuance of a Community obligation.
- (2) Paragraph 1 above does not preclude the disclosure by the Secretary of State to the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Lord Advocate, a procurator fiscal or a constable of—
- (a) information obtained by virtue of section 43A, 44 or 44A above; or
 - (b) information in the possession of the Secretary of State as to any suspected contravention in relation to which the powers conferred by those sections are exercisable.

Information supplied by a supervisory authority

- (1) Paragraph 1 above applies also to information which—
- (a) has been supplied to the Secretary of State for the purposes of any relevant functions by a supervisory authority in a member State other than the United Kingdom; or
 - (b) has been obtained for those purposes by the Secretary of State, or by a person acting on his behalf, in another member State.
- (2) Subject to sub-paragraphs (3) and (4) below, information supplied or obtained as mentioned in sub-paragraph (1)(a) or (b) above shall not be disclosed except as provided by paragraph 1 above or—
- (a) for the purpose of enabling or assisting the Secretary of State to discharge any relevant functions; or

⁽¹⁷⁾ S.I. 1992/3218.

⁽¹⁸⁾ 1987 c. 22.

⁽¹⁹⁾ 1986 c. 46.

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- (b) with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Act or otherwise.
- (3) Information supplied as mentioned in sub-paragraph (1)(a) above may be disclosed—
 - (a) to a relevant recipient, if the supervisory authority which supplied the information consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(1) above; or
 - (b) to the Treasury or the Secretary of State, if that authority consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(3) above.
- (4) Information obtained as mentioned in sub-paragraph (1)(b) above may be disclosed—
 - (a) to a relevant recipient, if the supervisory authority in the member State concerned consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(1) above; or
 - (b) to the Treasury or the Secretary of State, if that authority consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(3) above.
- (5) In this paragraph—
 - “relevant functions”, in relation to the Secretary of State, means his functions under this Act;
 - “relevant recipient” means a person specified in any of entries 1 to 7, 12, 13 and 17 in the Table in paragraph 3(1) above.

PART II

INFORMATION RELATING TO OTHER PERSONS

Restriction on disclosure

- (1) Subject to paragraph 7 below, no information which—
 - (a) has been obtained under section 44(2) to (4)(**20**) or 44A(**21**) above; and
 - (b) relates to the business or other affairs of a person who is not a relevant person for the purposes of paragraph 1 above,shall be disclosed without the consent of the person from whom the information was obtained and, if different, the person to whom it relates.
- (2) A person who discloses any information in contravention of this paragraph shall be guilty of an offence under section 449 of the Companies Act or Article 442 of the Companies (Northern Ireland) Order 1986 and liable accordingly.

Permitted disclosures

- (1) Paragraph 6 above does not preclude the disclosure of information to any person who is a competent authority for the purposes of section 449 of the Companies Act or Article 442(1)(a) to (e) of the Companies (Northern Ireland) Order 1986.

(20) Subsections (2) to (4) have been amended by the Companies Act 1989 (c. 40), section 77(2).

(21) Section 44A was inserted by the Companies Act 1989 (c. 40), section 77(3).

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(2) Paragraph 6 above does not preclude the disclosure of information as mentioned in any of the paragraphs except (m) of subsection (1) of section 180 of the Financial Services Act 1986 or in subsection (3) or (4) of that section or as mentioned in section 449(1) of the Companies Act or Article 442 of that Order.

(3) Paragraph 6 above does not preclude the disclosure of any such information as is mentioned in section 180(5) of the Financial Services Act 1986 by any person who by virtue of that section is not precluded by section 179 of that Act from disclosing it.”