

SCHEDULE 4

Regulation 9(5).

PROHIBITIONS BY THE BOARD

Notice of prohibition

1.—(1) Where the Board proposes—

- (a) to impose a prohibition on a European investment firm under regulation 9 of these Regulations; or
- (b) to refuse an application made by a European investment firm under paragraph (3) of that regulation,

it shall give the firm on which it proposes to impose the prohibition, or whose application it proposes to refuse, written notice of its intention to do so, stating the reasons for which it proposes to act.

(2) In the case of a proposed prohibition the notice shall state the date on which it is proposed that the prohibition should take effect and, in the case of a limited prohibition, its proposed duration.

(3) Where the reasons stated in a notice under this paragraph relate specifically to matters which—

- (a) refer to a person identified in the notice other than the firm concerned; and
- (b) are in the opinion of the Board prejudicial to that person in relation to any office or employment,

the Board shall, unless it considers it impracticable to do so, serve a copy of the notice on that person.

(4) A notice under this paragraph shall give particulars of the right to require the case to be referred to the Financial Services Tribunal under section 97 of the Financial Services Act.

(5) Where a case is not required to be referred to that Tribunal by a person on whom a notice is served under this paragraph, the Board shall, at the expiration of the period within which such a requirement can be made—

- (a) give that person written notice of the prohibition or refusal; or
- (b) give that person written notice that the prohibition is not to be imposed or, as the case may be, written notice of the grant of the application;

and the Board may give public notice of any decision notified by it under paragraph (a) or (b) above and the reasons for the decision, except that it shall not do so in the case of a decision notified under paragraph (b) unless the person concerned consents to its doing so.

(6) Where the Board gives a notice under sub-paragraph (1) or (5)(a) or (b) above, it shall serve a copy of the notice on the relevant supervisory authority in the firm's home State.

References to the Financial Services Tribunal

2. Section 97 of the Financial Services Act(1) (references to the Tribunal) shall have effect as if—

- (a) any reference to a notice served under section 29 of that Act included a reference to a notice served under paragraph 1 above;
- (b) any reference to a copy of a notice served under that section included a reference to a copy of a notice served under sub-paragraph (3) of that paragraph;
- (c) any reference to the withdrawal of an authorisation included a reference to the imposition of an absolute prohibition under regulation 9 of these Regulations; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (d) any reference to the suspension of an authorisation included a reference to the imposition of a limited prohibition under regulation 9 of these Regulations;

and any reference in that section to a decision not to withdraw or suspend an authorisation shall be construed accordingly.

- (1) (1) Section 98 of the Financial Services Act (decisions on references by applicant or authorised person etc.) shall have effect as if—

- (a) the applications mentioned in paragraph (a) of subsection (2) included an application for the variation of a limited prohibition imposed under regulation 9 of these Regulations; but

- (b) the applications mentioned in paragraph (b) of that subsection did not include an application for the rescission of any prohibition imposed under that regulation.

(2) Subsection (3)(b) of that section shall have effect as if the provisions there referred to included regulation 9 of these Regulations.

(3) That section shall have effect as if it included provision that paragraph 1 above shall not apply to any action taken by the Board in accordance with the Tribunal's report.

4.—(1) Section 100(2) of the Financial Services Act (withdrawal of references) shall have effect as if the reference to the provisions mentioned in section 97(1)(a) of that Act included a reference to paragraph 1 above.

(2) Section 100 of the Financial Services Act shall also have effect as if it included provision that where a person on whom a notice was served under paragraph 1 above withdraws a case from the Tribunal, sub-paragraph (5) of that paragraph shall apply to him as if he had not required the case to be referred.