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Financial Services Act 1986 (Repealed)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 recognised professional bodies

15 Authorisation by certification by recognised professional body.

- (1) A person holding a certificate issued for the purposes of this Part of this Act by a recognised professional body is an authorised person.
- (2) Such a certificate may be issued by a recognised professional body to an individual, a body corporate, a partnership or an unincorporated association.
- (3) A certificate issued to a partnership—
 - (a) shall be issued in the partnership name; and
 - (b) shall authorise the carrying on of investment business in that name by the partnership to which the certificate is issued, 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 a certificate issued 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 person who holds the certificate or is certified shall be construed as references to the persons or person for the time being authorised by the certificate to carry on investment business as mentioned in paragraph (b) above.

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16 Professional bodies.

- (1) In this Act a “professional body” means a body which regulates the practice of a profession and references to the practice of a profession do not include references to carrying on a business consisting wholly or mainly of investment business.
- (2) In this Act references to the members of a professional body are references to individuals who, whether or not members of the body, are entitled to practise the profession in question and, in practising it, are subject to the rules of that body.
- (3) In this Act references to the rules of a professional body are references to the rules (whether or not laid down by the body itself) which the body has power to enforce in relation to the practice of the profession in question and the carrying on of investment business by persons practising that profession or which relate to the grant, suspension or withdrawal of certificates under section 15 above, the admission and expulsion of members or otherwise to the constitution of the body.
- (4) In this Act references to guidance issued by a professional body are references to guidance issued or any recommendation made by it to all or any class of its members or persons seeking to become members, or to persons or any class of persons who are or are seeking to be certified by the body, and which would, if it were a rule, fall within subsection (3) above.

17 Applications for recognition.

- (1) A professional body may apply to the Secretary of State for an order declaring it to be a recognised professional body for the purposes of this Act.
- (2) Subsections (2) to (6) of section 9 above shall have effect in relation to an application under subsection (1) above as they have effect in relation to an application under subsection (1) of that section.

18 Grant and refusal of recognition.

- (1) The Secretary of State may, on an application duly made in accordance with section 17 above and after being furnished with all such information as he may require under that section, make or refuse to make an order (“a recognition order”) declaring the applicant to be a recognised professional body.
- (2) The Secretary of State may make a recognition order if it appears to him from the information furnished by the body making the application and having regard to any other information in his possession that the requirements of subsection (3) below and of Schedule 3 to this Act are satisfied as respects that body.
- (3) The body must have rules which impose acceptable limits on the kinds of investment business which may be carried on by persons certified by it and the circumstances in which they may carry on such business and which preclude a person certified by that body from carrying on any investment business outside those limits unless he is an authorised person otherwise than by virtue of the certification or an exempted person in respect of that business.
- (4) Where the Secretary of State refuses an application for a recognition order he shall give the applicant a written notice to that effect, stating the reasons for the refusal.
- (5) A recognition order shall state the date on which it takes effect.

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19 Revocation of recognition.

- (1) A recognition order under section 18 above may be revoked by a further order made by the Secretary of State if at any time it appears to him—
 - (a) that section 18(3) above or any requirement of Schedule 3 to this Act is not satisfied in the case of the body to which the recognition order relates; or
 - (b) that the body has failed to comply with any obligation to which it is subject by virtue of this Act.
- (2) Subsections (2) to (9) of section 11 above shall have effect in relation to the revocation of a recognition order under this section as they have effect in relation to the revocation of a recognition order under subsection (1) of that section.

20 Compliance orders.

- (1) If at any time it appears to the Secretary of State—
 - (a) that subsection (3) of section 18 above or any requirement of Schedule 3 to this Act is not satisfied in the case of a recognised professional body; or
 - (b) that such a body has failed to comply with any obligation to which it is subject by virtue of this Act,he may, instead of revoking the recognition order under section 19 above, make an application to the court under this section.
- (2) If on any such application the court decides that subsection (3) of section 18 above or the requirement in question is not satisfied or, as the case may be, that the body has failed to comply with the obligation in question it may order the body to take such steps as the court directs for securing that that subsection or requirement is satisfied or that that obligation is complied with.
- (3) The jurisdiction conferred by this section shall be exercisable by the High Court and the Court of Session.

21 Notification requirements.

- (1) The Secretary of State may make regulations requiring a recognised professional body to give him forthwith notice of the occurrence of such events relating to the body, its members or persons certified by it as are specified in the regulations and such information in respect of those events as is so specified.
- (2) The Secretary of State may make regulations requiring a recognised professional body to furnish him at such times or in respect of such periods as are specified in the regulations with such information relating to the body, its members and persons certified by it as is so specified.
- (3) The notices and information required to be given or furnished under the foregoing provisions of this section shall be such as the Secretary of State may reasonably require for the exercise of his functions under this Act.
- (4) Regulations under the foregoing provisions of this section may require information to be given in a specified form and to be verified in a specified manner.
- (5) Any notice or information required to be given or furnished under the foregoing provisions of this section shall be given in writing or in such other manner as the Secretary of State may approve.

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- (6) Where a recognised professional body amends, revokes or adds to its rules or guidance it shall within seven days give the Secretary of State written notice of the amendment, revocation or addition; but—
- (a) notice need not be given of the revocation of guidance other than such as is mentioned in section 9(6) above or of any amendment of or addition to guidance which does not result in or consist of such guidance as is there mentioned; and
 - (b) notice need not be given in respect of any rule or guidance, or rules or guidance of any description, in the case of which the Secretary of State has waived compliance with this subsection by notice in writing to the body concerned; and any such waiver may be varied or revoked by a further notice in writing.
- (7) Contravention of, or of regulations under, this section shall not be an offence.

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