
STATUTORY INSTRUMENTS

1994 No. 526

FINANCIAL SERVICES

The Auditors (Financial Services Act 1986) Rules 1994

Made - - - - - *3rd March 1994*

Coming into force - - - - - *1st May 1994*

Whereas it appears to the Treasury that auditors who are persons to whom section 109(1) of the Financial Services Act 1986(1) and the following Rules apply are not subject to satisfactory rules made or guidance issued by a professional body specifying circumstances in which matters are to be communicated as mentioned in that section;

Whereas a draft of these Rules has been approved by a resolution of each House of Parliament pursuant to section 109(4) of that Act;

The Treasury, in exercise of the powers conferred on them by section 109 of the Financial Services Act 1986 and of all other powers enabling them in that behalf, hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Auditors (Financial Services Act 1986) Rules 1994 and shall come into force on 1st May 1994.

Interpretation

2. In these Rules—

“the Act” means the Financial Services Act 1986;

“auditor” means an auditor of an authorised person;

“disciplinary action” means action of a kind mentioned in section 47A(4)(a) to (d) of the Act(2), any similar action which a recognised self-regulating organisation or recognised professional body has power to take and, in the case of a recognised self-regulating organisation or recognised professional body, any power to impose a financial penalty;

“matter” means any matter to which section 109 of the Act applies;

(1) 1986 c. 60. The functions of the Secretary of State under section 109 of the Financial Services Act 1986 have been transferred to the Treasury by the Transfer of Functions (Financial Services) Order 1992 (S.I. 1992/1315). That section has been amended by the Financial Services Act 1986 (Delegation) Order 1987 (S.I. 1987/942) and by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).

(2) Section 47A of the Financial Services Act 1986 was inserted by section 192 of the Companies Act 1989 (c. 40).

“powers of intervention” means the powers conferred by Chapter VI of Part I of the Act and any similar powers exercisable by a recognised self-regulating organisation or a recognised professional body; and

“the relevant regulator” means the person, organisation or body to which an auditor must communicate a matter by virtue of section 109 of the Act.

Circumstances in which auditor is to communicate

3.—(1) Matters are to be communicated to the relevant regulator by an auditor in the circumstances specified in paragraph (2) below.

(2) The circumstances referred to in paragraph (1) above are ones in which the auditor has reasonable cause to believe that the matter is or is likely to be of material significance for determining either—

- (a) whether a person is a fit and proper person to carry on investment business; or
- (b) whether disciplinary action should be taken, or powers of intervention exercised, in order to protect investors from a significant risk of loss.

3rd March 1994

Tim Wood
Nicholas Baker
Two of the Lord’s Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Rules)

The Rules impose a duty on an auditor of an authorised person under the Financial Services Act 1986 to report to the relevant regulator any matter of which he may become aware in his capacity as auditor of that person where the auditor has reasonable cause to believe that the matter is, or is likely to be, of material significance for determining whether a person is fit and proper to carry on investment business or whether disciplinary action ought to be taken or powers of intervention exercised in order to protect investors against a significant risk of loss. The relevant regulator may be the Securities and Investments Board or a recognised self-regulating organisation or recognised professional body under the Act.