CHAPTER 1 STANDARDS OF CONDUCT

SECTION 1 Fitness and Properness

1.1 THE PRINCIPLES

1.1(1) Application of the Principles

(a) These Principles are intended to form a universal statement of the standards expected from practitioners in the financial services industry. They apply directly to the conduct of Investment Business by all Authorised Persons, including firms regulated by SROs and those certified by Recognised Professional Bodies, and to their financial standing.

(b) The Principles are not exhaustive. Conformity with them does not excuse a failure to observe other regulatory requirements and the observance of other requirements does not necessarily amount to conformity with the Principles.

(c) Breach of a Principle does not of itself give rise to an action for damages, but will be taken into account for purposes of discipline and intervention.

Note: Where the Principles refer to customers, they refer also to potential customers, and where they refer to a firm’s regulator, they mean FSA, or an SRO or professional body which regulates the firm.

THE PRINCIPLES

30.4.90

1 Integrity

A firm should observe high standards of integrity and fair dealing.

2 Skill, Care and Diligence

A firm should act with due skill, care and diligence.

3 Market Practice

A firm should observe high standards of market conduct. It should also, to the extent endorsed for the purpose of this principle, comply with any code or standard as in force from time to time and as it applies to the firm either according to its terms or by rulings made under it.

4 Information about Customers

A firm should seek from customers it advises or for whom it exercises discretion any information about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling it to fulfil its responsibilities to them.

5 Information for Customers

A firm should take reasonable steps to give a customer it advises, in a comprehensible and timely way, any information needed to enable him to make a balanced and informed decision. A firm should similarly be ready to provide a customer with a full and fair account of the fulfilment of its responsibilities to him.

6 Conflicts of Interest

A firm should either avoid any conflict of interest arising or, where conflicts arise, should ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A firm should not unfairly place its interests above those of its customers and, where a properly informed customer would reasonably expect that the firm would place his interests above its own, the firm should live up to that expectation.

7 Customer Assets

Where a firm has control of or is otherwise responsible for assets belonging to a customer which it is required to safeguard, it should arrange proper protection for them, by way of segregation and identification of those assets or otherwise, in accordance with the responsibility it has accepted.

8 Financial Resources
A firm should ensure that it maintains adequate financial resources to meet its investment business commitments and to withstand the risks to which its business is subject.

9 Internal Organisation

A firm should organise and control its internal affairs in a responsible manner, keeping proper records, and where the firm employs staff or is responsible for the conduct of investment business by others, should have adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that it has well-defined compliance procedures.

10 Relations with Regulators

A firm should deal with its regulator in an open and cooperative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

1.2 CRITERIA FOR JUDGING FITNESS AND PROPERNESS

1.2(1) Observance of the Principles

30.11.91

Each Firm must recognise that IMRO has a continuing duty to determine whether a Firm remains a fit and proper person to carry on its Permitted Business. In doing so, IMRO shall take account of whether the Firm has observed the Principles in carrying on its Permitted Business or any other activities that may affect its Permitted Business.

Note:
Firms should read Rule 1.1(1) for a fuller statement of the effect of the Principles on a Firm’s conduct of its Permitted Business.

1.2(2) Other matters which IMRO may take into account

31.10.97; RN43

IMRO may also take account of any other considerations as IMRO shall see fit. Such other considerations may include findings or decisions of courts or other bodies on the basis set out in paragraph (g) of Rule 6.6(1) of Chapter VIII and any decision by the Takeover Panel which it has reported to IMRO.

If a provision of the Takeover Code or The London Code of Conduct has the effect of prohibiting a Firm from complying with an IMRO Rule, the Firm may treat the Rule as disappplied by virtue of Rule 3.2(2) and paragraph (3) of Table 3.2(2) of this Chapter.

Note:
The findings of fact listed in paragraph (g) of Rule 6.6(1) of Chapter VIII may be relied on as prima facie evidence of the facts found. These findings include those made by the Financial Services Tribunal, FSA, SROs, Recognised Professional Bodies, investment exchanges, overseas regulatory authorities and the Takeover Panel and findings of investigations carried out under the Companies Act 1985.

In determining whether a Firm remains "fit and proper" IMRO may also take into account the conduct of any Related Company, Connected Person, Company Representative or Associate of the Firm. The Takeover Code has been endorsed by FSA in respect of IMRO for the purposes of Principle 3. This means that, if a Firm does not comply with the Takeover Code, it will not be considered to have observed Principle 3.

If a Firm were to fail to comply with the Takeover Code or to act in any situation covered by the Takeover Code for any person whom the Firm knew or should reasonably have known did not observe it or was unlikely to observe it, then IMRO would normally regard that as a ground for disciplinary action. However, IMRO will not apply for an injunction, interdict or other order under Section 61 of the Act. IMRO will not normally take disciplinary action or exercise a power of intervention for failure to comply with the Takeover Code pending the conclusion of an investigation by the Takeover Panel.

SECTION 2 Compliance with Rules and Special Conditions

2.1 REQUIREMENT TO COMPLY

2.1(1) Compliance with Rules and Special Conditions

Each Firm must comply with:

16.2.96; RN24
(a) the Rules;
(b) any Special Conditions imposed on or accepted by it; and
(c) those statutory provisions contravention of which is stated in them to be treated as a breach of the Rules.

Note:
By virtue of Rule 2.2(2) of Chapter VII Investment Business other than a Firm's Permitted Business must not be carried on by that Firm in the UK unless, in respect of that Business, the Firm is either an Authorised Person otherwise than by virtue of membership of IMRO or is an Exempted Person. If the Firm does not fall within these exceptions but has carried on business outside the terms of its Permitted Business, it will be in breach of the Rules.

Note:
Each Firm is responsible for the conduct of its Appointed Representatives and, if they breach any Rule, IMRO may proceed as if the Firm had committed the breach. See Rule 1.7(2) of Chapter IV for further details.

Note:
The term "Rules" includes the "Statutory Rules", as defined in the Definitions Schedule. Rules 3.2(1) to (2) of this Chapter set out the scope of the Rules and the circumstances in which the Rules are disapplied. Rules 1.1(1) to 1.3(1) of Chapter VI set out the circumstances in which the Rules may be amended or waived.

Note:
The provisions described in paragraph (c) include those set out in the following Sections of the Act:
63A (application of designated rules and regulations);
95(1) (contravention of the provisions on Collective Investment Schemes made in Chapter VIII of the Act or regulations made under that Chapter);
111(4) (appointment of a disqualified person as an auditor);
154(2) (issuing of advertisements or other information in connection with listing particulars except in accordance with the Section);
171(1) (contravention of certain provisions, rules or requirements made in connection with offers of unlisted securities);
178(5) (transaction of certain Investment Business with persons who have failed to cooperate with an insider dealing investigation);
and in certain regulations issued under the European Communities Act 1973.

SECTION 3 Interpretation and Scope

3.1 INTERPRETATION

3.1(1) Definitions Schedule
30.11.91
Words and terms used throughout the Rules have the meanings given to them in the Definitions Schedule.

3.2 SCOPE OF THE RULES

3.2(1) Business
31.1.99; RN48

(a) In general, the Rules apply to a Firm when carrying on business which is Regulated Business, and accordingly, where a Rule relating to business applies only in particular circumstances, the Rule applies only if those circumstances apply in the course of Regulated Business.

Note: The "Rules" are defined to include those Core Conduct of Business Rules which are designated to apply directly to Firms. See also Note to Rule 4.2(1) of this Chapter.
(b) Where indicated, the Rules also apply to the carrying on (whether in the UK or elsewhere) of other business which is Investment Business (apart from the business of engaging in one or more of the activities which fall within paragraph 18 in Part III of Schedule 1 to the Act), Associated Business or business which is held out as being for the purposes of investment.

**Note:** Business which is held out as being for the purposes of investment includes acting as a manager of any ISA component, whether or not that management also constitutes Investment Business or Associated Business. [RN48]

(c) The Rules apply to a European Firm when carrying on Home Regulated Investment Business to the extent specified in Section 12 of Chapter II.

(d) The Rules apply to an ISD Firm when carrying on ISD Investment Services in a Host State to the extent specified in Section 13 of Chapter II.

**Note:** Under the ISD, the Host State is responsible for supervising the provision by an ISD Firm of ISD Investment Services. This means that many of the Rules in Chapters II and IV will not apply to the carrying on of that business outside the UK.

(e) The Rules do not apply to a Firm which is a Listed Money Market Institution when it is carrying on Home Regulated Investment Business in that capacity.

(f) The Rules do not apply to a Firm to the extent that it acts as an Exempted Person.

3.2(2) Other cases where the Rules do not apply

16.2.96; RN24

In addition to the cases described in paragraph (f) of Rule 3.2(1) above, the Rules do not apply to Firms and their activities to the extent set out in Table 3.2(2).

**Table 3.2(2) Cases where certain Rules do not apply**

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<table>
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<tr>
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<tbody>
<tr>
<td>(1) Firms holding additional authorisation to Investment Business in respect of which the Firm is authorised by FSA or by membership of another SRO;</td>
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<tr>
<td>(2) Business regulated by overseas exchanges to any particular aspect of Investment Business which is Regulated Business but which it is reasonably necessary for the Firm to undertake or arrange outside the UK, to the extent that the Rules conflict with the rules and regulations of an Overseas Investment Exchange or a Recognised Investment Exchange applying to that aspect;</td>
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<tr>
<td>(3) Conflict of Law to the extent that by reason of: any provision of any law or regulatory requirement of any part of the UK; or any law (or regulatory requirement having the force of law) of any other territory outside the UK applicable to any activity that it is reasonably necessary for the Firm to undertake, and which is in fact undertaken, in that territory; it is or becomes unlawful or it is prohibited for the Firm to comply with these Rules.</td>
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**SECTION 4 Rules of General Application**

4.1 CONFORMITY WITH THE RULES

4.1(1) Reliance on others

30.11.91
(a) A person is to be taken to act in conformity with the Rules to the extent that:

(i) the relevant regulator has issued formal guidance on compliance with them; and

Note:
The text (other than italicised notes) in the tinted boxes and Appendices of the Rulebook constitutes formal guidance under paragraph (a)(i) of Rule 4.1(1); see Foreword and Definitions Schedule, Section 2.

(ii) in reliance on standards set in that guidance, the person concerned believes on reasonable grounds that he is acting in conformity with the Rules.

(b) A person is to be taken to act in conformity with any of the Rules as to information, to the extent that he can show that he reasonably relied on information provided to him in writing by a third party whom he believed on reasonable grounds to be independent and competent to provide the information.

(c) Any communication required under the Rules to be sent to a Customer may be sent to the order of the Customer, so long as the recipient is independent of the Firm; and there is no need for a Firm to send a communication itself where it believes on reasonable grounds that this has been or will be supplied direct by another person.

4.1(2) Taking reasonable steps

1.8.94; RS10

Where a Firm is required by a Rule to take reasonable steps or similar measures, the onus shall be on the Firm to show that it has taken those reasonable steps or measures.

4.2 ARRANGEMENTS FOR RESTRICTED COMMUNICATION

4.2(1) Chinese Walls

16.2.96; RN24

(a) Where a Firm maintains an established arrangement which requires information obtained by the Firm in the course of carrying on one part of its business of any kind to be withheld in certain circumstances from persons with whom it deals in the course of carrying on another part of its business of any kind, then in those circumstances:

A Firm should have adequate monitoring procedures to ensure that arrangements established in accordance with paragraphs (a) and (b) of Rule 4.2(1) are effective.

Note:
A European Firm may apply to IMRO for a waiver of Rule 4.2(1) if it is able to demonstrate that it is subject to Home State requirements relating to arrangements for restricted communication which are at least equivalent to those set out in this Rule.

(i) that information may be so withheld; and

(ii) for that purpose, persons employed in the first part may withhold information from those employed in the second;

Note:
This Rule is the only remaining Core Conduct of Business Rule which is designated to apply directly to Firms.

but only to the extent that the business of one of those parts involves Investment Business or Associated Business.

(b) Information may also be withheld where this is required by an established arrangement between different parts of the business (of any kind) of a Group, but this provision does not affect any requirement to transmit information which may arise apart from the Rules.

(c) Where the Rules apply only if a Firm acts with knowledge, the Firm is not for the purposes of the Rules to be taken to act with knowledge if none of the relevant individuals involved on behalf of the Firm acts with knowledge.

(d) In addition, in order to avoid the attribution of information held within a Firm to that Firm for the purposes of Section 47 of the Act, the effect of Section 48(6) of the Act is that nothing done in conformity with paragraph (a) of this Rule is to be regarded as a contravention of Section 47 of the Act.
Note:
The practical effect of (d) opposite is that a Firm which operates a Chinese Wall in accordance with this Rule will not thereby breach Section 47 (which makes it a criminal offence in certain circumstances to engage in misleading statements and practices).

CHAPTER II CONDUCT OF BUSINESS RULES

SECTION 1 Seeking Customers and Advertising for Business

1.1 ADVERTISING: RULES OF GENERAL APPLICATION

1.1(1) Issue and approval of Investment Advertisements

Where a Firm issues or approves an Investment Advertisement, it must:

**Note:** Exceptions to the Advertising Rules are set out in Rules 1.4(1) and (2).

**Note:** "Approve" means to approve for the purposes of section 57 (restrictions on Advertising) of the Act.

(i) apply appropriate expertise; and

(ii) be able to show that it believes on reasonable grounds that the advertisement is fair and not misleading.

**Note:** The Advertising Code applies where relevant to any Investment Advertisement for any ISA component. [RN48]

The Advertising Code in appendix 1.1(1) sets out the standards which Firms should consider in judging whether any advertisement is fair and not misleading. The Code does not apply to Short Form Advertisements or to advertisements issued or approved for issue to Non-private Customers (but this Rule 1.1(1) still applies).

Where a Firm issues or approves a specific Investment Advertisement it must ensure that the advertisement identifies it as issuer or approver, and also identifies IMRO as its regulator.

**Note:** Rule 8.1(1) contains additional requirements for Specific Investment Advertisements relating to BES Schemes.

A firm must not approve a Specific Investment Advertisement if it relates to units in an Unregulated Collective Investment Scheme.

**Note:** Paragraph (c) of Rule 1.1(1) does not prevent a Firm from issuing a Specific Investment Advertisement relating to units in an Unregulated Collective Investment Scheme in accordance with Section 76 of the Act.

Where the Rules govern the issue or approval of an Investment Advertisement then, except to the extent indicated, they govern the issue of an Investment Advertisement in the UK and approval (whether in the UK or elsewhere) of an Investment Advertisement for issue in the UK.

**Note:** Section 207(3) of the Act provides that an Advertisement issued outside the UK will be treated as issued in the UK (and will, therefore, be subject to the Rules) "if is directed to persons in the United Kingdom or is made available to them otherwise than in a newspaper, journal, magazine or other periodical publication published and circulating principally outside the United Kingdom or in a sound or television broadcast transmitted principally for reception outside the United Kingdom".

1.1(2) Issue and approval of Published Recommendations

Rule 1.1(1) also applies to all Published Recommendations to the same extent as it applies to Investment Advertisements.

30.11.91

The standards set out in the Advertising Code apply equally to Published Recommendations as to Investment Advertisements.

**Note:** Published Recommendations include not only Investment Advertisements but also the publication of recommendations to hold Investments.

1.1(3) Information requirements for Life Policies

Where a Firm issues or approves an Investment Advertisement relating to a Life Policy, the
Firm must ensure that it includes the relevant information required by the PIA rules applicable to such an advertisement as if those rules applied to the Firm.

4.11.96; RN32

**Note:** The Transitional Provisions relating to this Rule ceased to have effect in respect of Packaged Products which are Life Policies from 1 January 1995.

**Note:** In the case of a Direct Offer Advertisement relating to a Life Policy, Firms should also note the requirements of Rule 1.3(1).

### 1.1(4) Approval procedure and records

1.7.95; RN13

When issuing or approving an Investment Advertisement and Published Recommendation, the firm must ensure that:

- it is approved by a specified individual who is responsible for seeing that the Advertising Rules are, so far as applicable, complied with; and

- records, including the name of the specified individual and the date of approval by him, together with a record of the evidence used to support any factual statement relevant to the product or service being advertised or recommended or of how access to such evidence may be obtained, are kept available for inspection by IMRO for not less than three years from the latest date of publication.

**Note:** Particular advertisements may, in addition to these Rules, be subject to further requirements or restraints imposed either by law (e.g. the Act, the Companies Acts, the Trade Descriptions Acts) or by other regulatory authorities (e.g. the Advertising Standards Authority and the Independent Television Commission).

### 1.2 ISSUE OR APPROVAL OF ADVERTISEMENTS FOR AN OVERSEAS PERSON

#### 1.2(1) Restrictions on issue or approval

16.2.96; RN24

A firm must not issue or approve a Specific Investment Advertisement which is calculated to lead directly or indirectly to an Overseas Person (other than a European Investment Firm) carrying on Investment Business:

**Note:** Exceptions to the Advertising Rules are set out in Rules 1.4(1) and (2).

**Note:** Where the Overseas Person is a European Investment Firm (i.e. a firm authorised in another Member State in accordance with the ISD) the Prescribed Disclosure need not be made.

- which is not Regulated Business; and

- with or for a Private customer who is in the UK;

unless both the advertisement contains the Prescribed Disclosure and the Firm has no reason to doubt that the Overseas Person not being a European Investment Firm) will deal with investors in the UK in an honest and reliable way.

### 1.3 DIRECT OFFER ADVERTISEMENTS

#### 1.3(1) Restriction and content

4.11.96; RN32

A Firm must take reasonable steps to ensure that it does not issue or approve a Direct Offer Advertisement for the sale of Investments or the provision of Investment Services to a Private customer unless the advertisement:

- gives information about the Investments or Investment Services, and the risks involved, which is adequate and fair having regard to the (uk or overseas) regulatory protections which apply and the market to which the advertisement is directed;

The Advertising Code in Appendix 1.1(1) sets out the standards which firms should consider when judging whether the information given in a Direct Offer Advertisement is adequate and fair.

**Note:** Exceptions to the Advertising Rules are set out in Rules 1.4(1) and (2).

**Note:** Rules 8.2(1) and (2) contain additional requirements for Direct Offer
Advertisements relating to BES Schemes and BES Shares.

includes written contractual terms in accordance with Rule 2.4(1); and

includes, where the advertisement relates to a Packaged Product, the Key Features information required by Rule 6.2(3);

Note: The Transitional Provisions relating to paragraph (c) of this Rule cease to have effect in respect of packaged Products which are not Life Policies from 1 May 1997.

Note: Rule 6.2(3) requires that Key Features information in relation to a Life Policy should be produced in accordance with the rules of PIA; and that key Features information in relation to a Packaged Product which is not a Life Policy should be produced in accordance either with the provisions of Table 6.2(3)(b), or with the rules of PIA. LAUTRO rule 6.19, which is adopted in the PIA rules, requires that all the information which should be included in the Key Features document pursuant to rules 5.7 to 5.10 and Schedule 6 of the LAUTRO rules must be included in a Direct Offer Advertisement.

Note: Firms should also note that Rule 1.1(3) requires a Firm to ensure that an Investment Advertisement relating to a Life Policy includes information required under the PIA rules.

offers Derivatives or Warrants only where the Firm itself issues the advertisement and does so only to a Private Customer for whom it believes on reasonable grounds the Investment or Investment Services to be suitable.

1.4 DISAPPLICATION OF CERTAIN ADVERTISING RULES

1.4(1) Exceptions for certain types of advertisements

30.11.91

The rules on issue and approval of advertisements and an issue or approval of advertisements for an Overseas Person do not apply:

(i) to the issue by an Authorised Person of an Exempt Advertisement; or

Note: An "Exempt Advertisement" is an Investment Advertisement which can be lawfully issued in the UK by a person who is not an Authorised Person. The kinds of Investment Advertisement concerned are referred to in Section 58 of the Act.

(ii) to the issue or approval of a DIE Advertisement, a Takeover Advertisement, or (unless they constitute a Direct Offer Advertisement) Scheme Particulars.

The Rules do not apply to the reissue of an Investment Advertisement which has been prepared and issued by another person and which the Firm believes on reasonable grounds:

(i) is an Exempt Advertisement, a DIE Advertisement, a Takeover Advertisement, or (unless they constitute a Direct Offer Advertisement) Scheme Particulars; or

(ii) is already issued or approved by an Authorised Person and is issued to a market for which it was intended at the time of its issue or approval by the Authorised Person.

1.4(2) Exceptions for certain types of recipient

30.11.91

Rule 1.1(3) of this Chapter does not apply to advertisements which are likely to be communicated only to Non-private Customers or to persons carrying on Investment Business.

IMRO recognises that a legitimately issued Investment Advertisement may unintentionally fall into the hands of people who were not the intended recipients. IMRO would not regard this in itself as a breach of the Advertising Rules if a Firm could otherwise demonstrate due care in observing those Rules.

1.5 COLD CALLING
1.5(1) Complying with the Unsolicited Calls Regulations

30.11.91

A Firm may only enter into an Investment Agreement with any person or procure or endeavour to procure that person to enter into an Investment Agreement in the course of or in consequence of a Cold Call if the firm observes the requirements of the Unsolicited Calls Regulations.

Note: Firms are required, under Rule 1.1(5) of Chapter IV, to establish and maintain procedures governing the conduct of Company and Appointed Representatives when calling on or advising Private Customers.

1.5(2) Explaining cancellation rights to Customers

18.8.97; RN38

If a Cold Call involves a personal recommendation to a Private Customer relating to a Package Product, any applicable cancellation rights must be explained to the Customer.

Where a Key Features document is required under Rule 6.2(2), this must include an explanation of applicable cancellation rights. In other circumstances the explanation may be included in a Buyers’ Guide given pursuant to paragraph (b) of Rule 6.1(1) or other brochure.

1.6 INDUCEMENTS

1.6(1) Prohibition on Inducements

16.2.96; RN24

A Firm must take reasonable steps to ensure that neither it nor any of its agents:

- offers or gives; or
- solicits or accepts;

either in the course of Regulated Business or otherwise, any Inducement which is likely significantly to conflict with any duties of the recipient (or the recipient’s employer) owed to Customers in connection with Regulated Business.

In judging whether their conduct meets the standards called for by this Rule, Firms may disregard the making of arrangements:

- between members of a Marketing Group, including their Appointed Representatives, or
- between any of those persons and their respective employees, for the purpose of marketing the Packaged Products of the group; and
- between members of a Group for the purposes of selling the Group’s Investments or Investment Services.

However, Firms should ensure that commission arrangements which are not disclosable, and any other Inducements, are unlikely so to influence the recipients as to cause them to breach any duties which they may have under Rules 3.1 (Suitability), 6.3 (Standards of Advice on Packaged Products) and 3.8 (Best Execution).

Arrangements for the rebate or discounting of commission will not constitute an Inducement where the Firm can show that the arrangement is in the Customer’s interests and the amount or basis of the commission rebate or discount is disclosed to that Customer.

Note: The definition of "Inducement" excludes Disclosable Softing Services and any commission required to be disclosed by Rules 3.5(1), 6.4(1) and 6.4(2).

Note: Each Firm is responsible for the conduct of its Appointed Representatives and, if any of them breaches a Rule, IMRO may proceed as if the Firm had committed the breach. See Rule 1.7(2) of Chapter IV for further details.

1.7 SOFT COMMISSION

1.7(1) Use of Soft Commission Agreements

1.9.95; RN14

A Firm which deals for a Customer on an advisory basis or in the exercise of discretion may not deal, either directly or indirectly, through a broker pursuant to a Soft Commission Agreement unless:

the agreement is a written agreement for the provision of Disclosable Softing Services which are directly relevant to the provision of Investment Services to the Firm’s Customers and which are in fact so used;
the broker has agreed to provide Best Execution to the Customer;

the Firm is satisfied on reasonable grounds that the terms of business and methods by which the relevant broking services will be supplied do not involve any potential for comparative price disadvantage to the Customer;

As part of any soft commission arrangement with an integrated house a Firm should obtain confirmation that any soft commission arrangement will not involve any potential for comparative price disadvantage to its Customers and to be satisfied, on reasonable grounds, that this is the case.

in transactions in which the broker acts as principal, the Firm is satisfied that commission paid under the agreement will be sufficient to cover the value of the Disclosable Softing Services to be received and the costs of execution; and

**Note:** Firms are reminded of the need to ensure that effective procedures are observed to secure Best Execution in accordance with Rule 3.8(1).

adequate prior and periodic disclosure is made.

**1.7(2) Benefits to be provided under a Soft Commission Agreement**

1.9.95; RN14

The benefits to be provided to a Firm under a Soft Commission Agreement must consist only of Disclosable Softing Services and must not include cash, or any other financial benefit.

In complying with Rule 1.7(2), where a Firm is able to and does reclaim or offset all or part of the VAT payable on Disclosable Softing Service received, the Firm should ensure that its soft commission account with the broker is only charged with the net amount at the Firm's effective rate. Disclosure of the value of Disclosable Softing Services received, in accordance with Rule 1.7(4), should be expressed net of VAT reclaimed, where appropriate.

**1.7(3) Prior disclosure**

1.9.95; RN14

Before a Firm enters into a Customer Agreement authorising it to deal for a Customer, either directly or indirectly, with or through the agency of another person, under a Soft Commission Agreement which the Firm has, or knows that another member of its Group has, with that person, it must inform the customer in writing of the existence of that Soft Commission Agreement and of its or, where relevant, its Group's policy relating to Soft Commission Agreements.

Firms should note that such disclosure requirements apply equally where deals are arranged direct, and not solely on an agency basis, with a third party (e.g. a Unit Trust Manager within the same group), which itself party to the Soft Commission Agreement.

Policy statements should explain generally why the Firm or a member of its Group might find it necessary or desirable to pay commission, bearing in mind the practices in the markets in which it does business on behalf of its Customers.

**1.7(4) Periodic disclosure**

1.9.95; RN14

If a Firm has, or knows that another member of its Group has, a Soft Commission Agreement with another person under which either it or that other party deals for a Customer, the Firm must:

This Rule does not require disclosure where business is put through a broker with whom the Firm has a Soft Commission Agreement but which is not placed pursuant to that agreement.

at least once a year report to the Customer the following information for the period since the Firm last reported to him or, if no previous report has been made, since the Firm first dealt for him under that agreement:

(i) the percentage paid under all such Soft Commission Agreements of the total commission paid by or at the direction of the Firm and any other member of its Group which is party to those agreements;

(ii) the value (on a cost price basis) of Disclosable Softing Services received by the Firm and such other members of its Group, expressed as a percentage of the total commission paid by or at the direction of the Firm and those other members whether or not paid under Soft Commission Agreements;

(iii) a summary of the Disclosable Softing Services received by the Firm and those other members;
(iv) a list of counterparties to such Soft Commission Agreements; and

(v) the total commission paid from the portfolio of that Customer;

at least once a year in the periodic report required to be submitted under paragraph (a) above, or in a document accompanying it, set out the policy of the firm relating to Soft Commission Agreements for the periodic up to the submission of the next policy statement (which shall not exceed one year) or state that its policy has not changed;

give the Customer a written statement of its policy relating to Soft Commission Agreements relevant to that Customer’s portfolio promptly after a material change in that policy; and

disclose, if it is the case, that the Disclosable Softing Services received are expected only to assist in the provision of Investment Services to other Customers.

Commission should include that paid in all markets. Commission paid in currencies which are not the reporting currency of the Customer’s portfolio should be reported applying a policy consistent with other reports to the same Customer or on a basis agreed in writing with the Customer.

Estimates are acceptable for the purpose of valuing services where necessary, but Firms should be able to satisfy IMRO that the estimates have been properly made.

Consistent allocation principles should be applied where there is a partial use for the benefit of a Firm of a service supplied under a Soft Commission Agreement. It is not, however, necessary to estimate the cost of general support and execution services by brokers, unless they are subject to specific Soft Commission Agreements.

1.7(5) Exception from periodic disclosure requirements

30.11.91

A firm shall not be required to make any periodic disclosure required by paragraph (e) of Rule 1.7(1) and Rule 1.7(4) to a Customer resident overseas who has requested the Firm not to do so or where the Firm has reasonable grounds for believing that he does not wish to be given such disclosure.

1.7(6) Records

30.11.91

A Firm must maintain records to support the information supplied in periodic reports in sufficient detail to satisfy IMRO about its accuracy and must keep those records for at least three years from the date when the Soft Commission Agreement to which they relate is terminated.

A Firm which is part of a Group participating in a Soft Commission Agreement should keep records justifying the basis on which commission paid, or value received, by the Group has been allocated to the Firm.

1.8 OVERSEAS BUSINESS FOR UK PRIVATE CUSTOMERS

1.8(1) Requirement to make prescribed disclosure

1.1.96; RN18

A Firm must not carry on Investment Business:

(i) which is not Regulated Business; and

(ii) with or for a Private Customer who is in the UK;

unless it has made the Prescribed Disclosure to the Customer.

Note: The Prescribed Disclosure need not be made where the business carried on consists of ISD Investment Services: see the definitions of Investment Business and Regulated Business.

A Firm must not give an introduction or advice, or make arrangements, with a view to another person carrying on such business with or for such a Customer, unless it has both made the Prescribed Disclosure and has no reason to doubt that the Customer will be dealt with in an honest and reliable way.

1.9 BUSINESS CONDUCTED FROM AN OVERSEAS PLACE OF BUSINESS WITH OVERSEAS
CUSTOMERS

1.9(1) Requirement to make prescribed disclosure

1.1.96; RN18

If, in any communication made or advertisement issued to a Private Customer outside the UK in connection with Investment Business which is not Regulated Business, a Firm indicates that it is an Authorised Person, it must also, and with equal prominence, make the Prescribed Disclosure.

Note: The Prescribed Disclosure need not be made where the business carried on consists of ISD Investment Services: see the definitions of Investment Business and Regulated Business.

APPENDIX 1.1.(1) THE ADVERTISING CODE

Note: For the purposes of this Appendix, "Investment" includes any ISA component. [RN48]

4.11.96; RN32

This code describes the standards set by IMRO for judging whether an Investment Advertisement meets the requirements of paragraph (a)(ii) of Rule 1.1(1) and paragraph (a) of Rule 1.3(1).

GENERAL REQUIREMENTS

To follow the code a Firm should:

Clarity of purpose
make it plain that the advertisement contains promotional material and has a promotional purpose and make the advertisement distinct from any other matter contained in the medium which carries it;

Clarity of subject
describe clearly the nature of the Investment or the services to which the advertisement relates;

Avoidance of misleading statements, promises or forecasts
take all reasonable steps to ensure that any statement, promise or forecast to be included or approved is not misleading in form or context;

Verification of statements of fact
have formed the reasonable belief (on the basis of evidence of which a record is kept or to which access may be obtained):

that any statement relevant to the product or services being advertised and purporting to be a statement of fact is true; and

that any such statement will remain true during the currency of the advertisement;

Statements of opinion
take all reasonable steps to ensure that the person giving any statement of opinion is of that opinion at the time when the advertisement is issued or approved;

Disclosure of capacity
if the Firm or an Associate is a Market Maker in any Investment being advertised, state that fact;

Disclosure of Material Interests and conflicts
if in relation to the Investment or Investment Services which are the subject of the advertisement the Firm has directly or indirectly a Material Interest (except for an interest arising solely from the mere participation of the Firm as agent for the Customer) or a relationship of any description with another party which may involve a conflict with the Firm's duty to the Customer, state that fact and disclose the nature of the interest or relationship.

Note: An example of a Material Interest is where a Firm or an Associate has a Long or Short Position in an Investment which is not a Readily Realisable Investment and the Firm is recommending recipients to buy or, as the case may be, sell that Investment.

GENERAL PROHIBITIONS

To follow the code a Firm should not:
Promotions not to be disguised

issue an advertisement with the intention of persuading anyone who responds to it to the transact Investment Business of a kind of not described in the advertisement;

No false claims of independence

claim or suggest independence of itself or any of its Associates in giving advice, making recommendations or exercising discretion unless such claim or suggestion may properly be made;

Advertisement not to claim government, etc., approval

state or imply that the Investment or services being advertised or any other matter in the advertisement has been approved by IMRO, SIB or any governmental or other public regulatory body unless;

approval has been given in writing; or

the advertisement is issued by or on behalf of Her Majesty’s Government;

except that, if an Investment has been recognised by the Inland Revenue for the purpose of qualifying investors for relief from taxation, the advertisement may say so;

No suppression of required statements

disguise the significance of any statement, warning or other matter required by the Advertising Rules to be included in an advertisement either through relative lack of prominence or by the inclusion of matter likely to detract from it;

No false indications about scale of business

include any statement indicating the scale of the activities or the extent of the resources of the advertiser which implies that the resources available to support performance of its obligations are greater than they are;

Advertisement not to include inappropriate reference to IMRO

if the advertisement does not relate to Investment Business, include any matter referring to IMRO.

SPECIFIC REQUIREMENTS

If an advertisement contains any of the items listed in the left-hand column below, to follow the code a Firm should:

Synopsis or selection

state enough of the relevant features to give a fair view of the Investment or Investment Agreement being advertised, including the financial commitments and risks involved, and state how full details may be obtained;

Information about past performance of Investments or of an Investment Manager

include information about past performance only if:

it is relevant to the performance of the Investment or investment management service advertised;

it is complete, or is a fair and not misleading representation of the past performance of the Investment or investment management service;

it has not been selected so as to exaggerate (or disguise) the success (or lack of success) of the Investment or investment management service over the period to which the information relates; and

the source of the information is stated and the advertisement contains a warning that the past is not necessarily a guide to future performance;

Invitation to enter into an Investment Agreement with a named person

make it clear, by statement or by necessary implication, whether the person offering any Investment or service is to contract as principal or agent and (if that person is to act as agent) give the name of the principal if the principal can be identified at the time when the advertisement is issued;

Information about taxation:

if any references are made to taxation
include a warning that the levels and bases of, and reliefs from, taxation can change;

where a matter is based upon an assumed rate of taxation, state the rate;

(i) state that any tax reliefs referred to are those currently available and that their value depends on the individual circumstances of the investor; and

(ii) make it clear whether any tax reliefs (or freedom from taxation) referred to in the advertisement apply directly to the investor, to the provider of the investment or to the fund in which the investor participates or, if such is the case, to more than one of them;

state whether the matters referred to are only relevant to a particular class or classes of investor with particular tax liabilities and identify the class or classes and liabilities concerned;

do not describe the Investment as being free from any liability to capital gains tax unless equal prominence is given to a statement, if applicable, that the value of the Investment is linked to a fund which is liable to that tax; and

do not describe the income from the Investment as being free from any liability to income tax unless equal prominence is given to a statement, if applicable, that the income is payable out of a fund which is liable to that tax.

SPECIFIC PROHIBITIONS

If an advertisement is of a kind described, or contains any of the items listed in the left-hand column below, to follow the code a Firm should not:

Material stating or implying limited availability

claim or imply limited availability of Investments or services (e.g. limited quantity, limited period of offer, or special terms for a limited period) unless justified;

Testimonials

quote from a testimonial or commendation unless the quotation is:

complete, or a fair representation of the whole;

accurate and not misleading at the time when the advertisement is issued; and

relevant to the Investment or service advertised;

and the author has given his consent to the advertisement and, if he is an employee, Officer or Associate of the Firm, the advertisement says so;

Comparisons or contrasts

include any comparison or contrast, for example with other Investments, expenditure, assets, services or indices, unless it is fair and the Firm should also not omit factors which are likely to be relevant to an appreciation of such comparison or contrast;

Advertisements issued by Appointed Representatives

include any matter referring:


to IMRO except in relation to the Permitted Business of a Firm on whose behalf the Appointed Representative is acting; or


to the fact that the advertiser is connected with a Firm if the advertisement is not in respect of the Permitted Business of that Firm;

or state that the Appointed Representative is an Authorised Person;

Guarantees

describe any Investment as guaranteed unless there is a legally enforceable arrangement with a third party who undertakes to meet in full an investor’s claim under the guarantee.

RISK WARNINGS

To follow the code a Firm should give the following risk warnings, if applicable:
An Investment which can fluctuate in value

for an Investment which can fluctuate in value, a statement should warn that values may fall as well as rise and that the investor may not get back the amount he has invested;

High yield Investments

for an Investment described as being likely to yield a high income or as suitable for an investor particularly seeking income from his Investment, the investor should be warned, if it is the case, that income from the Investment may fluctuate in value in money terms;

Investments involving exposure to a foreign currency

for an Investment involving exposure to a currency other than that in which acquisitions of the Investment are invited, the investor should be warned that changes in rates of exchange may cause the value of the Investment to go up or down;

Investments which are not Readily Realisable Investments

for an Investment which is not a Readily Realisable Investment, the advertisement should state that there is no recognised market for the Investment and that it may, therefore, be difficult for the investor to deal in the Investment or for him to obtain reliable information about its value or the extent of the risks to which it is exposed.

Investments for which the market is restricted

for an Investment for which a market is made by less than three independent Market Makers (that is, person who are not Associates of each other), the advertisement should state this fact and, if it is the case, the fact that the advertiser is the only Market Maker;

Investments which are front-end-loaded or risk significant loss on realisation

for an Investment where deductions for charges and expenses are not made uniformly throughout the life of the Investment but are loaded disproportionately on to the early years, the advertisement should state this fact;

for a Readily Realisable Investment which in the reasonable opinion of the advertiser may only be readily realisable at a significant loss the advertisement should include a statement to that effect and the reason for it;

Investments carrying contingent liability

for an Investment where the Customer may not only lose all of the amount he originally invested but also may have to pay more money later, the advertisement should warn the investor that he may lose more than the amount of his original Investment;

for an Investment of the type described in sub-paragraph (a) above where the advertisement promotes advisory or discretionary services in relation to transactions effected otherwise than on a Recognised or Designated Investment Exchange and in a contract of a type traded on those exchanges, the advertisement should state that such transactions are only suitable for a person who has experience in transactions of that description;

Note: Under Rule 3.13(1) of Chapter II, a Firm must not effect, arrange or recommend an off-exchange Contingent Liability Transaction to a Private Customer unless it believes on reasonable grounds that the purpose of the transaction is to hedge against currency risk involved in a position which the Customer holds.

Warrants

for a Warrant, the advertisement should state that a Warrant often involves a high degree of gearing so that a relatively small movement in the price of the Security to which the Warrant relates may result in a disproportionately large movement, unfavourable as well as favourable, in the price of the Warrant;

Advertising of so-called "High Income" Products

where a Firm issues or approves an Advertisement for an investment product or service which offers "high income", it should ensure that:

the use of the term "income", either in the name of the product or to describe payments to investors, is not misleading in form or context; if "income" payments to investors constitute a return of capital either in whole or in part, this should be made clear; a Firm should bear in mind what investors are likely to understand by the term; where "income" payments do not represent a distribution of interest, and/or dividend or other earnings, this should be explained clearly and prominently at an early point in the Advertisement;
the Advertisement makes clear, if it is the case, the extent to which the forecast rate of "income" will be achieved by foregoing the potential for future capital growth, any claim that the risk of capital depreciation is limited should be balanced by an explanation of any limitation on the potential for capital recovery; all the risks to an investor's capital, or to maintenance of "income" payments at the advertised rate are fully explained, having regard to the particular nature of the product; any comparison of the product the subject of the Advertisement either directly or indirectly with bank and building society deposits or other investment and deposit-based savings vehicles is not made unless its distinguishing features and attendant risks are adequately explained; the use, size and prominence afforded to the description of the "income" payments, together with any associated graphics or figures is not such as to distract from the salient features of the product and the nature of the risks involved; in particular, the advertised rate of income should not be presented in such a way as to imply that it is "guaranteed" or "certain" where this is not the case; and if the relevant risk factors are not placed alongside or immediately after the advertised rate of "income", prominent signposting should be provided indicating where they may be found, and all the risk factors should appear with sufficient prominence relative to other text to ensure that the significance of the risks is not disguised;

Higher Volatility Funds

that, in the case of a Higher Volatility Fund, the loss on realisation [or cancellation] may be very high (including total loss of the investment), as the value, of such an investment may fall suddenly and substantially;

Real Property

that, where the underlying investments of a fund consist wholly or substantially of real property, it may be difficult or impossible to realise an investment because the real property concerned may not be readily saleable, and that the value of the real property concerned is generally a matter of a valuer's opinion;

Government and Other Public Securities

that more than 35% of the property of a Regulated Collective Investment Scheme (at the time when the advertisement is prepared for issue) consists, or is likely to consist, of Government and other public securities issued by one issuer, together with the identity of that issuer;

OTHER PROVISIONS RELATING TO PACKAGED PRODUCTS

If an advertisement relates to a Packaged Product which is not a Life Policy, to follow the code a Firm should:

Forecasts or illustrations

not include a forecast or illustration of the realisable value of an investment in the Packaged Product concerned except in accordance with the requirements of paragraphs 3 and 4 of Table 6.2(3)(b) ;

Comparisons with Unregulated Collective Investment Schemes

not include any comparison or contrast of the performance or the likely performance of an investment in units in a Regulated Collective Investment Scheme with an investment in an Unregulated Collective Investment Scheme;

Past performance

not include any information about past performance of such a Packaged Product unless the advertisement includes information relating to the performance of the investment during the period of five years, or if it has been in existence for less than five years, for the period during which it has been in existence, ending with the date on which the advertisement is approved for issue; and

if reference is made to an actual return to an investor, or a comparison of performance is made with other forms of investment, the reference or comparison is made on an "offer to bid" basis, and the basis is stated or otherwise apparent;

if a comparison is made of performance with an index or with movements in the price of units, the basis on which the comparison is made (for example, "offer to offer" or "offer to bid") is stated or otherwise apparent;
and any such comparison is fair;

Cancellation

state the period within which any right to cancel may be exercised and whether that right
is granted by the Cancellation Rules or given voluntarily, and should state:

if it is the case, that upon cancellation the investor will not recover his
investment in full should the market have fallen since the Investment was acquired;
and

in relation to a Higher Volatility Fund, that the shortfall in what he recovers
should the market have fallen could be very high because of the possibility of
sudden and large falls in the value of the units.

SPECIFIC PROVISIONS RELATING TO ISAS

[RN48]

If an advertisement relates to an ISA, to follow the Code a Firm should:

Type of ISA

make it clear whether the ISA is a mini or maxi ISA agreement (as defined in the
Individual Savings Account Regulations) and explain the difference between the two;

CAT Standard ISAs

where an ISA component is to be managed in accordance with the relevant CAT Standard,
include a statement that this does not necessarily mean that the investment is
appropriate for the investor, and a statement (which may be omitted in the case of an ISA
Cash Deposit) that there is no guarantee of investment performance. The Firm should also
make it clear that adherence to the CAT standards is warranted by the Firm and that it
does not carry certification by any other body. The investor should be advised to seek
financial advice if in doubt and that he may have to bear the cost of this advice;

Non-CAT Standard ISAs

state, if it is the case, that an ISA component is not being managed in accordance with
the relevant CAT Standard together with, if desired, any relevant explanation;

Coverage by compensation schemes

state, where applicable, in the case of an ISA Cash Deposit, that the investor’s monies
may not be covered by a consumer compensation scheme;

Acting as agent for an ISA Cash Deposit

state, if applicable, in relation to an ISA Cash Deposit, that the Firm acts as agent in
arranging the cash deposit, identifying the principal, and explaining that the principal
has accepted responsibility for the activities of the Firm in relation to the cash
deposit.

SECTION 2 Accepting Customers for Investment Business

2.1 CUSTOMER STATUS

2.1(1) Establishing the status of your Customer

1.196; RN20

Before dealing with or for any Customer, a Firm must take reasonable steps to establish
whether that Customer is a Private Customer or a Non-private Customer.

This requirement applies not only at the outset but also for as long as the Customer
relationship continues. A Firm should review, and be able to show that it has reviewed, each
Non-private Customer categorisation at least once a year in order to determine whether the
Firm should continue to provide Investment Services to the Customer on the basis of that
categorisation. The review should take account of any changes in the Customer’s circumstances,
and in the nature of the Investment Services provided, which are relevant to that
determination.

Note: Firms are reminded of the record keeping requirements in relation to a Non-private
Customer in Table 1.6(2) of Chapter IV.
2.1(2) Waiver of protection by Private Customers

16.2.96; RN24

A Firm may treat a Customer who would otherwise be a Private Customer as a Non-private Customer for the purpose of the Rules, if:

- it has given a clear written warning to the Customer of the protections under the regulatory system which he will lose; and
- it can show that it believes on reasonable grounds that the Customer has sufficient experience and understanding to waive the protections provided for Private Customers;
- the Customer has given his written consent after a proper opportunity to consider that warning, unless the Customer is ordinarily resident outside the UK and is reasonably believed not to wish to consent in writing.

Before reaching any conclusion about whether a Customer has sufficient experience and understanding, Firms should consider whether, on the basis of information known about the Customer and/or any representations made by him, the Customer:

- understands the nature and suitability of the investments in which he, or the Firm on his behalf, is likely to invest, and the risks involved in those investments; and
- has sufficient experience to assess the suitability of the relevant transactions.

IMRO considers that compliance with this Rule would require a Firm to warn the Customer that he will lose the protection afforded by the Rules applicable exclusively to Private Customers.

The Rules in that category include in particular Rules 1.2, 1.3, 1.8, 1.9, 2.2, 2.5, 3.1, 3.2, 3.3, 3.4, 3.5, 3.8, 3.11, 3.16, 4.2, 6.1, 6.3 and 6.4 of Chapter II and Rule 2.3 of Chapter VII.

The warning should identify any of those Rules which are relevant to the Customer concerned. The Customer should also be warned that he will lose any right of action which he may have under Section 62 of the Act for breach of any of the above Rules.

IMRO considers that compliance with this Rule would require a Firm to cease treating the relevant Customer as a Non-private Customer if he subsequently withdraws his consent.

2.1(3) Voluntarily offering Private Customer status to others

30.11.91

For the purpose of the Rules a Non-private Customer may be treated as a Private Customer, if the Firm and the Customer so agree in writing.

Such a Customer will not have any right of action under Section 62 of the Act, unless he is also a "private investor" within the definition set out in the Financial Services Act 1986 (Restriction of Right of Action) Regulations 1991, or is otherwise entitled to sue in the limited circumstances set out in regulation 3 of those regulations.

2.1(4) Dealing with an agent

1.2.96; RN23

A Firm may treat the agent of an Indirect Customer as its Customer where:

- the agent is reasonably believed to be an authorised Person or a European Investment firm in respect of the Investment Services concerned; or
- the agent has refused to answer the Firm's enquiries about its principal; or
- the agent (not being a European Investment Firm) does not carry on Investment Business in the UK, and the main purpose of the arrangements between the parties is not the avoidance of duties which the Firm would owe to the Indirect Customer.

2.2 REACHING AGREEMENT WITH PRIVATE CUSTOMERS

2.2(1) Scope of this Rule

30.11.91

The requirements set out in this Rule 2.2 do not apply if the Investment Services to be performed are of a kind specified in Table 2.2(1).
Note: Rule 2.2 also does not apply to intra-group activities excluded under paragraph 18 of Schedule 1 to the Act, because such activities are not "Investment Business" and so fall outside the scope of the IMRO Rules.

2.2(2) Type of document to be sent to Private Customers

30.4.99; RN 50

Before providing any Investment Services to a Private Customer, a Firm must provide him a Full Customer Agreement.

Note: This requirement does not apply to Market Counterparties and Trust Beneficiaries (because they are not "Customers").

2.2(3) Documents involving Contingent Liability Transactions and/or discretionary management

30.11.91

Where a Firm provides to a Private Customer (other than an Indirect Customer) Investment Services involving:

- Contingent Liability Transactions; or
- the discretionary management of the Customer's assets;

it must do so under a Two-way Customer Agreement (unless the Customer is ordinarily resident outside the UK and the Firm believes on reasonable grounds that he does not wish a Two-way Customer Agreement to be used).

Note: In practice, this Rule means that these services can be provided to a Private Customer ordinarily resident in the UK only if:

he has a proper opportunity to consider the terms of the agreement; and

he signifies his assent in writing.

Firms relying on the exception from Two-way Customer Agreements for Customers ordinarily resident outside the UK must nonetheless comply with the remainder of this Rule 2.2, to the extent applicable.

2.2(4) Signature of documents by Private Customers

30.4.99; RN 50

If no Customer signature is obtained, a Firm should be able to show why it believes the Customer does not object to the terms of the Customer Agreement. [RN 50]

Where a Firm has provided a Full Customer Agreement to a Private Customer, it must obtain the Customer's signature signifying his acceptance of the agreement in accordance with its terms; save (except if Rule 2.2(3) applies) where the Firm believes on reasonable grounds that the Customer does not object to its terms. [RN 50]

Where a Private Customer has offered to enter into a Customer Agreement in accordance with its terms, but has not signed the agreement, the Customer must be provided with a copy of the Customer Agreement within seven days of the Customer offering to enter into the Customer Agreement. [RN 50]

Where a copy of an agreement is provided in accordance with paragraph (b) of Rule 2.2(4), it should contain a specified commencement date, in accordance with paragraph 4 of Appendix 2.4(1)(a), which is not contingent on or relative to any other event, except as required for cooling-off or other requirements of the Rules. [RN48]

Note: For the purposes of Rule 2.2(4) "signature" includes an electronically transmitted affirmation capable of reproduction in hard printed form indicating the date of receipt, as well as a hard copy signature in writing. [RN 50]

2.2(5) Acceptance of terms by Private Customers overseas without signature of documents

30.11.91

If the Customer is ordinarily resident outside the UK and the Firm believes, on reasonable grounds, that he does not wish to enter into the relevant Customer Agreement,
the Firm shall be at liberty to accommodate that wish; but in such a case the terms on which the Firm intends to provide its services must nonetheless be set out in writing in such details as can reasonably be expected to be sufficient to allow the Customer to become acquainted with those terms.

The Firm may, for the purpose of the Rules, regard the Customer as having accepted any of the warnings, notices, disclosures, consents or other statements required to be included in (or which in satisfaction of any other Rules are contained in or accompany) the Full Customer Agreement sent or handed to him by the Firm, except to the extent of any contrary provision in the agreement actually entered into.

2.2(6) Signature of documents by Trustees

30.11.91

If a Full customer Agreement has been signed by one or more of a number of trustees, but the signature of all the trustees whose signatures are required to bind the trust have not been obtained, then (for the purpose of Rule 2.2(4) ) the Firm may nonetheless treat the document as duly signed by the trustees unless the Firm has reason to believe any of the other trustees has refused his signature. After six months, however, no Investment Services may be provided in the absence of the signature by such number of trustees as shall acting together have power to bind the trust.

*Note:* Rule 2.2(6) reflects IMRO's wish to allow Firms a reasonable degree of flexibility when seeking to enter into agreements with trustees in accordance with the requirements of these Rules. Despite this flexibility Firms are warned that, where a Customer Agreement has not been executed by all co-trustees, then the trustees (by virtue of the operation of general and trust law) may not be bound by the provisions of the agreement.

2.3 REACHING AGREEMENT WITH NON-PRIVATE CUSTOMERS

2.3(1) Scope of this Rule

30.11.91

The requirements set out in this Rule do not apply if the Investment Services to be performed are of a kind specified in Table 2.2(1).

2.3(2) Types of Customer Documents to be sent to Non-private Customers

30.11.91

Before providing any Investment Services to a Non-private Customer, a Firm must send or hand to him:

*Note:* This does not apply to Market Counterparties or Trust Beneficiaries (because they are not "Customers")

- a Statement of Protection; or
- a Full Customer Agreement; or
- a Terms of Business letter.

2.3(3) Acceptance of terms by Non-private Customers

30.11.91

If a Non-private Customer has received one of the documents mentioned above but the Firm believes, on reasonable grounds, that he wishes to receive the Firm’s services on another basis, then the Firm shall be at liberty to accommodate that wish; in all cases, though, the terms on which the Firm intends to provide its services must be evidenced in writing.

The Firm may, for the purpose of the Rules, regard the Customer as having accepted any of the warnings, notices, disclosures, consents or other statements required to be included in (or which in satisfaction of any other Rules are contained in or accompany) the relevant documentation sent out or handed to him by the Firm, except to the extent of any contrary provision in the agreement actually entered into.

*Note:* The practical effect of this Rule is that Firms are not obliged to obtain a signature from any Non-private customer, and they are free to agree alternative arrangements if that is what their Customer wishes. In all cases, though, the Firm must keep a record of the terms it has agreed with the Customer: see Rule 2.4(7).
2.4 CONTENTS OF CUSTOMER DOCUMENTS

2.4(1) Private Customers

1.4.92; RS4

Where a Firm provides Investment Services to a Private Customer (other than an Indirect Customer) on written contractual terms, the agreement must set out in adequate detail the basis on which those services are provided.

IMRO has set standards for the contents of Customer documents for Private customers as follows:

Full Customer Agreement: refer to Appendix 2.4(1)(a)

Additional contents for Discretionary Agreement: refer to Appendix 2.4(1)(b)

2.4(2) Non-private Customers

30.11.91

Documents sent or handed to Non-private Customers should have regard to the standards set by IMRO for the contents of these documents.

IMRO has set standards for the contents of Customer documents for Non-private Customers, as follows:

Full Customer Agreement: refer to Appendix 2.4(1)(a)

Additional contents for Discretionary Agreement: refer to Appendix 2.4(1)(b)

Terms of Business Letter: refer to Appendix 2.4(2)(a)

Statement of Protection: refer to Appendix 2.4(2)(b).

2.4(3) Format and presentation of Customer Documents

30.11.91

Any Customer Document may consist of a number of documents but none of the statements required by IMRO may be presented to Customers in a way that diminishes its significance.

In particular, if the initial value or initial composition of a portfolio cannot be ascertained before the Customer Agreement is sent out signed, it must be included in a written statement sent to the Customers as soon as reasonably practicable afterwards, together with an invitation to report any inaccuracies. The statement (or, if applicable, any corrected statement) may then be treated as having formed part of the agreement from the outset.

2.4(4) Amendments to Customer Documents

30.11.91

Any Customer Agreement may be amended in accordance with its terms; this applies even to a Full Customer Agreement which allows a Firm to amend it unilaterally, but in that case the Firm must also give 14 days' notice before providing any service on the amended terms (unless the circumstances dictate a shorter period.)

In judging whether any circumstances do or do not dictate a shorter period, IMRO would have regard to whether a reasonable investment adviser would consider a shorter period to be justified in all the circumstances.

2.4(5) Cooling-off provisions: ISAs, PEPs and BES schemes

31.1.99; RN 48

If an ISA, PEP or a BES Scheme is sold by personal recommendation or advice, then (unless one of the exceptions in Rule 2.4(6) below applies) the terms of the Customer Agreement must give the Customer the opportunity to change his mind through the exercise of either:

(i) withdrawal rights during a seven-day Cooling-off Period; or

(ii) cancellation rights in accordance with the Cancellation Rules; or

(iii) withdrawal rights during the 14 day period of cooling-off provided for in the Banking Code issued by the British Bankers' Association, if this could apply to the agreement in question.
The Cooling-off Period starts on the day of the Firm’s receipt of the Customer’s offer to enter into the Customer Agreement, except that, where paragraph (b) of Rule 2.2(4) applies, it starts on the day on which the copy of the Customer Agreement provided under that Rule is reasonably believed by the Firm to have been received by the Customer.

IMRO’s recommended procedure for giving Customers a seven-day "Cooling-off Period" is set out below: [RN 44]

Before accepting the Customer’s offer to enter into a Customer Agreement:

send to the Customer as soon as reasonably practicable a written notice: [RN48]

(i) accompanied by a form which may be used by the Customer to withdraw his offer; and

(ii) stating that the Firm will accept the offer not earlier than the seventh day following the day on which the form was despatched to the Customer, or, where paragraph (b) of Rule 2.2(4) applies, the Customer’s deemed receipt of the copy Customer Agreement, and that the offer is withdrawn if the Firm receives the completed form on or before that seventh day; or

send or hand to the Customer as soon as reasonably practicable a Customer Agreement:

(i) attaching or containing form to be used by the Customer to withdraw his offer; [RN48]

(ii) stating that the Customer may withdraw by returning the form to the Firm within seven days of the Firm’s receipt of the Customer’s offer to enter into the agreement or, where paragraph (b) of Rule 2.2(4) applies, the Customer’s deemed receipt of the copy Customer Agreement; and [RN48]

(iii) supply the Customer with two copies of the proposed Customer Agreement.

Note: Under the procedures outlined above the Firm may send the requisite documents by post or by electronic means of document transmission.

2.4(6) Exceptions to the cooling-off provisions for ISAs and PEPs

31.1.99; RN 48

The cooling-off provisions prescribed in Rule 2.4(5) do not apply:

where the Customer Agreement is entered into on substantially the same terms as one entered into in the immediately preceding tax year with the same Firm; or

where responsibility for management of the ISA or PEP has been transferred to the Firm from another ISA manager or PEP manager, at the request of the Customer, in accordance with the Individual Savings Account Regulations 1998 or the Personal Equity Plan Regulations 1989.

2.4(7) Records to be kept

30.11.91

A Firm must make a record of the terms of each concluded Customer Agreement, and any amendment made to it, as soon as the Customer Agreement, or any such amendment, comes into effect and that record must be kept for at least three years after the relevant Customer Agreement is terminated.

2.5 EXCLUSION OF LIABILITY UNDER THE ACT OR THE RULES

2.5(1) Customers' rights

30.11.91

A Firm must not, in any written communication or agreement, seek to exclude or restrict any duty or liability to a Customer which it has under the Act, or under the regulatory system.

Similarly, unless it is reasonable to do so in the circumstances, a Firm must not, in any written communication or agreement, seek to exclude or restrict:
(i) any other duty to act with skill, care and diligence which is owed to a Private Customer in connection with the provision to him of Investment Services in the course of Regulated Business; or

(ii) any liability owed to a Private Customer in connection with Regulated Business for failure to exercise the degree of skill, care and diligence which may reasonably be expected of it in the provision of Investment Services in the course of that business.

A Firm must not seek unreasonably to rely on any provision seeking to exclude or restrict any such duty or liability.

Table 2.2(1)

Table 2.2(1) Investment Services to which the Customer Agreement Rules do not apply

<table>
<thead>
<tr>
<th>Rule</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>Authorised Persons</td>
</tr>
<tr>
<td></td>
<td>any service provided to, or any Investment Business transaction with or for,</td>
</tr>
<tr>
<td></td>
<td>an Authorised Person other than a service falling within paragraph 13A of</td>
</tr>
<tr>
<td></td>
<td>Schedule 1 to the Act;</td>
</tr>
<tr>
<td>(2)</td>
<td>Dealings with Execution-only Customers and Company Representatives</td>
</tr>
<tr>
<td></td>
<td>effecting any transaction other than a Contingent Liability Transaction for</td>
</tr>
<tr>
<td></td>
<td>a Private Customer:</td>
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<tr>
<td></td>
<td>a. with or for an Execution-only Customer of the Firm; or</td>
</tr>
<tr>
<td></td>
<td>b. with or for a Company Representative of the Firm or of another company</td>
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<td></td>
<td>in the same Group as the Firm;</td>
</tr>
<tr>
<td>(3)</td>
<td>Trustees of Unit Trust Schemes</td>
</tr>
<tr>
<td></td>
<td>acting as a trustee of a Unit Trust Scheme;</td>
</tr>
<tr>
<td>(4)</td>
<td>Operators of Unit Trust Schemes</td>
</tr>
<tr>
<td></td>
<td>any service provided by the Operator of a Unit Trust Scheme to the trustee</td>
</tr>
<tr>
<td></td>
<td>of the scheme which is not part of its Scheme Management Activity;</td>
</tr>
<tr>
<td>(5)</td>
<td>Operators of Regulated Collective Investment Schemes</td>
</tr>
<tr>
<td></td>
<td>any service provided by the Operator of a Regulated Collective Investment</td>
</tr>
<tr>
<td></td>
<td>Scheme as part of its Scheme Management Activity;</td>
</tr>
<tr>
<td>(6)</td>
<td>Operators of Investment Trust Savings Schemes</td>
</tr>
<tr>
<td></td>
<td>any service provided by the Operator of an Investment Trust Savings Scheme</td>
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<td></td>
<td>as part of its activities as such;</td>
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<tr>
<td>(7)</td>
<td>Sales/purchases of units in a Regulated Collective Investment Scheme</td>
</tr>
<tr>
<td></td>
<td>the sale or purchase as principal of units in a Regulated Collective</td>
</tr>
<tr>
<td></td>
<td>Investment Scheme by a Firm which is the Operator of that Scheme;</td>
</tr>
<tr>
<td>(8)</td>
<td>Open-ended Investment Companies</td>
</tr>
<tr>
<td></td>
<td>any service provided by an Open-ended Investment Company as part of its</td>
</tr>
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<td></td>
<td>Scheme Management Activity;</td>
</tr>
<tr>
<td>(9)</td>
<td>Life Offices</td>
</tr>
<tr>
<td></td>
<td>effecting a transaction as principal by a Firm which is a Life Office in</td>
</tr>
<tr>
<td></td>
<td>relation to a Life Policy issued by it;</td>
</tr>
<tr>
<td>(10)</td>
<td>Transactions with Operators of Investment Trust Savings Schemes</td>
</tr>
<tr>
<td></td>
<td>effecting a transaction as principal by a Firm which is the Operator of</td>
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<td></td>
<td>an Investment Trust Savings Scheme in any Investment Trust which is the</td>
</tr>
<tr>
<td></td>
<td>subject of the scheme;</td>
</tr>
</tbody>
</table>
(11) Advising on Packaged Products
any advice or arrangement of a transaction relating to a Packaged Product where a Firm reasonably believes that a Customer’s requirements at the relevant time are limited to Packaged Products;

(12) Advising during preparation of Customer Agreement
advice given solely for the purpose of preparing a Customer Agreement or with a view to entering into a Customer Agreement;

(13) Services performed after termination of Customer Agreement
services performed in pursuance of a Customer Agreement which has terminated, but only for the purposes of fulfilling any obligations still outstanding under the Customer Agreement;

(14) Supply of Published Recommendations
the supply of Published Recommendations;

(15) Existing Agreements
a. any service provided pursuant to a Customer Agreement which was in force on 29 April 1988, and is satisfactory to the Customer, if the Firm had sent to that Customer a proposed Customer Agreement which fully complied with the Rules by 1 January 1990 (or such later date as may have been expressly agreed by IMRO) and had fully explained the meaning and effect of any change from the existing agreement;

A Firm may treat any Customer Agreement as having been in force on 29 April 1988 if it was:

i. signed and delivered by the Firm to the Customer before 29 April 1988; and

ii. subsequently signed and returned to the Firm without material amendment.

any service provided pursuant to a Customer Agreement which was in force on 30 November 1991 and which, at that date, complied with the Rules then in force.

A Firm may treat any Customer Agreement as having been in force on 30 November 1991 if:

i. it was sent or handed to the Customer on or before 30 November 1991; and

ii. it was, or may be treated as having been, subsequently accepted in accordance with its terms.

APPENDIX 2.4(1)(a) CONTENTS OF A FULL CUSTOMER AGREEMENT
31.1.99; RN 48

PART I
GENERAL REQUIREMENTS

A Full Customer Agreement should include some provision about each of the following:

(1) Regulator
that the Firm is regulated in the conduct of its Investment Business by IMRO;

(2) Services
the nature of the services that the Firm will provide;

(3) Remuneration
in respect of any remuneration payable by the Customer to the Firm:
(a) the basis of calculation;  
(b) how it is to be paid and collected;  
(c) how frequently it is to be paid; and  
(d) whether or not any fees are to be supplemented or be abated by any other remuneration receivable by the Firm (or to its knowledge by its Associate) in connection with any transactions effected by the Firm with or for the Customer;

(4) Commencement of the Agreement
when and how the agreement is to enter into force;

(5) Instructions
if the Investment Services provided for in the agreement are to be performed by the Firm as an Investment Manager, or as Custodian of the Customer’s Investments or other property, the arrangements for:
(a) giving instructions to the Firm; and  
(b) acknowledging those instructions;

(6) Accounting
the arrangements for accounting to the Customer for any transaction effected on his behalf;

(7) Termination Method
how the agreement may be terminated, including a statement:
(a) that termination will be without prejudice to the completion of transactions already initiated;  
(b) that the Customer may terminate the agreement by written notice to the Firm which may take effect:
   (i) immediately upon receipt; or  
   (ii) in the case of a Non-private Customer, upon the expiry of a stated minimum period;  
(c) that if the Firm has the right to terminate the agreement, it may do so by notice given to the Customer and a statement of the minimum period, if any, of such notice; and  
(d) of any agreed time after which, or any agreed event upon which, the agreement will terminate;

Exception
Paragraphs (7)(a), (b) and (c) do not apply in the case of a Customer Agreement relating only to the provision of services by a Firm as a BES Scheme Manager.

(8) Termination Consequences
(a) the way in which transactions in progress are to be dealt with upon termination; and  
(b) except in relation to a Customer Agreement which constitutes a PEP and agreements with Non-private Customers, a statement that no additional payment will be required to be made to the Firm in respect of any termination, except that the Firm may charge the Customer:
   (i) periodic fees accrued and due;  
   (ii) any additional expenses which the Firm necessarily incurs on termination of the agreement;  
   (iii) any losses necessarily realised in setting or concluding outstanding obligations;

(9) Complaints Procedure
guidance on how to complain to the Firm, including a statement that the Customer also has a right of complaint direct to the Investment Ombudsman;

(10) Rights to Compensation
the Customer's rights to compensation if the Firm is unable to meet any of its liabilities to
the Customer, or a reference to the availability of a statement describing those rights.

PART II
PARTICULAR REQUIREMENTS

Where relevant, the Customer Agreement should include some provision about the following:

(11) Investment Objectives

the Customer's investment objectives;

(12) Restrictions

either:

(a) any restrictions on:

(i) the types of Investments in which the Customer wishes to invest; and

(ii) the markets on which the Customer wishes transactions to be effected; or

(b) that there are no such restrictions;

(13) Customer's assets

(a) whether the Firm will:

(i) hold money on behalf of the Customer or will be the Custodian of Customer Investments or
other property; or

(ii) arrange for some other person to act in either capacity and, if so, whether that person
is an Associate of the Firm, identifying that person and describing the nature of any
association; and

(b) in either case:

(i) how any money is to be deposited;

(ii) the arrangements for recording and separately identifying registrable Customer
Investments and, where the registered holders is the Firm's Own Nominee, that the Firm will be
responsible for the acts and omissions of that person;

(iii) the extent to which the Firm accepts liability for any loss of Customer Investments;

(iv) the extent to which the Firm, or any other person mentioned in paragraph (13)(a)(ii),
may hold a lien or security interest over Customer Investments;

(v) where Customer Investments will be registered collectively in the same name, a statement
that the Customer's entitlements may not be identifiable by separate certificates or other
physical documents of title, and that, should the Firm default, any shortfall in Customer
Investments registered in that name may be shared pro-rata among all Customers whose
Investments are so registered;

(vi) whether or not Customer Investments or other property can be lent to, or deposi-
ted by way of collateral with, a third party and whether or not money can be borrowed on the
Customer's behalf against the security of those Investments or property and, if so, the terms
upon which they may be so lent or deposited;

(vii) the arrangements for accounting to the Customer for Customer Investments; for income
received (including any interest on money and any income earned by lending Customer
Investments or other property); and for rights conferred in respect of Customer Investments or
property;

(viii) the arrangements for determining the exercise of any voting rights conferred by
Customer Investments; and

(ix) where Customer Investments may be held by an Eligible Custodian outside the UK, a
general statement that different settlement, legal and regulatory requirements, and different
practices relating to the segregation of those Investments, may apply; and

(c) where the Customer appoints his own Custodian, what authority the Firm will have, if any,
to deal with that Custodian on the Customer's behalf;

(14) Client's money outside UK
that the Firm is to have authority to hold the Customer’s money in a Client Bank Account outside the UK;

(15) Cold Calling

(a) the circumstances in which the Firm or its representatives or employees may make Cold Calls on a Private Customer; and

(b) a warning that a private Customer will, in relation to any Investment Agreement entered into in the course of or in consequence of such a call, forfeit the right conferred on him by Section 56 of the Act to treat the Investment Agreement as unenforceable;

(16) Advice

the manner in which advice is to be given;

(17) Investments which are not Readily Realisable Investments

a warning in respect of any service relating to Investments which are not Readily Realisable Investments that there is no recognised market for such Investments, and that it may therefore be difficult to deal in any such Investment or to obtain reliable information about its value or the extent of the risks to which it is exposed;

(18) Derivatives

the risk warnings to be given in relation to Derivatives as set out in the SFA Derivatives Risk Warning Notice (Appendix 15 to the SFA Rulebook);

(19) Warrants

a warning that a Warrant often involves a high degree of gearing so that a relatively small movement in the price of the security to which the Warrant relates may result in a disproportionately large movement, unfavourable as well as favourable, in the price of the Warrant;

(20) Exchange Rates

if a liability in one currency is to be matched by an asset in a different currency, or if the services to be provided under the agreement may relate to an Investment denominated in a currency other than the currency in which the Customer’s Investments are valued, a warning that a movement of exchange rates may have a separate effect, unfavourable as well as favourable, on the gain or loss otherwise experienced on the Investments;

(21) Unregulated Collective Investment Schemes

that the services provided by the Firm will or may include advising on or effecting transactions in units in Unregulated Collective Investment Schemes;

(22) Contingent Liability Transactions

(a) that the services provided by the Firm will or may include advising on or effecting Contingent Liability Transactions;

(b) a statement of the basis on which the Customer will or may incur contingent liability, including any margining arrangements;

(c) that the Firm has the authority of the Customer to effect Contingent Liability Transactions with or for the Customer otherwise than under the rules of a Recognised or Designated Investment Exchange and in a contract traded thereon, and may do so under the terms of Rule 3.13(1);

(23) Regulated Collective Investment Schemes

except in Discretionary Agreements and agreements with Non-private Customers, a prominent warning, in respect of any services relating to units in a Regulated Collective Investment Scheme not included in a PEP, that the Customer will not have the right to cancel any such transaction under the Cancellation Rules;

(24) PEPs

where the Customer Agreement is a PEP, a description of what rights the Customer is to have to cancel the agreement or to withdraw before the agreement is entered into;

(25) Stabilised Investments

that the Firm is to have the right under the agreement, in accordance with Rule 3.2(2), to effect transactions in Investments the prices of which may be the subject of Stabilisation;
(26) **BES Schemes**

if the services to be provided by the Firm under the agreement include the provision of services by the Firm as BES Scheme Manager, full BES Scheme Particulars of the relevant BES Scheme;

(27) **Material Interests and Conflicts**

a statement (if it is the case) that the Firm has a right without prior reference to the Customer to effect transactions with or for the Customer in respect of which the Firm has directly or indirectly a Material Interest (except for an interest arising solely from the mere participation of the Firm as agent for the Customer) or a relationship of any description with another party which may involve a conflict with the Firm's duty to the Customer together with a disclosure of the nature of the interest or relationship;

(28) **Use of Soft Commission Agreements**

if the Firm is authorised under the agreement to effect transactions with or through the agency of another person with whom the Firm has a Soft Commission Agreement, the prior disclosure required by paragraph (e) of Rule 1.7(1);

(29) **Investment Manager**

if a Firm is a acting as an Investment Manager:

(a) the Initial Value of the Managed Portfolio;

(b) the Initial Composition of the Managed Portfolio; and

(c) the period of account for which statements of the portfolio to be provided in accordance with Rule 4.5;

(30) **Acting as principal**

that the Firm may act as principal in a transaction with the Customer.

(31) **ISAs [RN48]**

where an ISA component is or has recently been advertised as managed in accordance with any CAT Standards, or the Firm has represented to the Customer that it will be managed in accordance with any CAT Standards, a statement that these will be adhered to.

**APPENDIX 2.4(1)(b) ADDITIONAL CONTENTS OF DISCRETIONARY AGREEMENTS**

30.11.91

A Discretionary Agreement should, in addition to the relevant provisions of Appendix 2.4(1)(a) or 2.4(2)(a), include some provision about each of the following:

1. **Restrictions**

(a) any restrictions on:

(i) the amount of any one Investment; and

(ii) the proportion of the portfolio which any one Investment or any particular kind of Investment may constitute; or

(b) that there are no such restrictions;

2. **Contingent Liability Transactions**

if the Customer Agreement allows the Firm to effect Contingent Liability Transactions, whether there are any limits on the amount to be committed by way of margin, and, if so, what those limits are;

3. **Conflicts**

(a) whether the Firm may for the portfolio acquire or dispose of units in a Collective Investment Scheme either operated or advised by the Firm or by an Associate of the Firm; and

(b) whether the portfolio may contain securities of which an issue or offer for sale was underwritten, managed or arranged by the Firm or an Associate of the Firm during the preceding twelve months;
(4) **Periodic Statements**

(a) the frequency of any Periodic Statements of the contents and valuation of the portfolio (this must not be less than once every twelve months except where a Periodic Statement is not required to be sent by virtue of the availability of an exception contained in Rule 4.5(2) or 7.5(3)); and

(b) whether those statements will include some measure of performance, and, if so, what the basis of that measurement will be;

*Note:*

This requirement is supplemental to the requirements specified in paragraph (29) of Appendix 2.4(1)(a) which apply when a Firm is entering into a Full Customer Agreement.

(5) **Valuation**

basis on which assets comprised in the portfolio are to be valued;

(6) **Borrowings**

whether the Firm may commit the Customer to supplement the funds in the portfolio including borrowing on his behalf, and, if it may do so:

(a) the circumstances in which the Firm may do so;

(b) whether there are any limits on the extent to which the Firm may do so and, if so, what those limits are; and

(c) any circumstances in which such limits may be exceeded;

(7) **Underwriting Commitments**

whether the Firm may commit the Customer to any obligation to underwrite any issue or offer for sale of Securities, and, if it may do so:

(a) whether there are any restrictions on the categories of Securities which may be so underwritten and, if so, what these restrictions are; and

(b) whether there are any financial limits on the extent of such underwriting and, if so, what these limits are.

**APPENDIX 2.4(2)(a) CONTENTS OF TERMS OF BUSINESS LETTER**

2.2.98; RN37

**PART I**

**GENERAL REQUIREMENTS**

An Terms of Business Letter should include some provision about each of the following:

(1) **Customer Status**

that the Customer is a Non-private Customer;

*Note:*

Persons who are Non-private Customers include those who are treated as such by the Firm in accordance with Rule 2.1(2).

(2) **Regulator**

that the Firm is regulated in the conduct of its Investment Business by IMRO;

(3) **Services**

the nature of the services that the Firm will provide;

(4) **Remuneration**

in respect of any remuneration payable by the Customer to the Firm:

(a) the basis of calculation;

(b) how it is to be paid and collected;

(c) how frequently it is to be paid; and
(d) whether or not any fees are to be supplemented or abated by any other remuneration receivable by the Firm (or to its knowledge by its Associate) in connection with any transactions effected by the Firm with or for the Customer;

(5) Commencement of the Agreement
when and how the agreement is to enter into force;

(6) Termination Method
how the agreement may be terminated, including a statement:
(a) that termination will be without prejudice to the completion of transactions already initiated;
(b) of any agreed time after which, or any agreed event upon which, the agreement will terminate; and
(c) that if the Firm or the Customer has the right to terminate the agreement, this can be done by notice given to the other party, and a statement of the minimum period, if any, of such notice;

(7) Termination consequences
the way in which transactions in progress are to be dealt with upon termination;

(8) Complaints Procedure
guidance on how to complain to the Firm, including a statement that the Customer also has a right of complaint direct to the Investment Ombudsman.

PART II
PARTICULAR REQUIREMENTS

Where relevant, the Terms of Business Letter should include some provision about the following:

(9) Client’s money outside UK
that the Firm is to have authority to hold the Customer’s money in a Client Bank Account outside the UK;

(10) Customer’s money not to be held as Client Money
if it is the case, that the Customer’s money will not be treated as Client Money in accordance with the Client Money Regulations;

(11) Unregulated Collective Investment Schemes
that the services provided by the Firm will or may include advising on or effecting transactions in units in Unregulated Collective Investment Schemes;

(12) Contingent Liability Transactions
(a) that the services provided by the Firm will or may include advising on or effecting Contingent Liability Transactions;
(b) a statement of the basis on which the Customer will or may incur contingent liability, including any marging arrangements;
(c) that the Firm has the authority of the Customer to effect Contingent Liability Transactions with or for the Customer otherwise than under the rules of a Recognised or Designated Investment Exchange and in a contract traded thereon, and is permitted to do so under Rule 3.13(1);

(13) BES Schemes
if the services to be provided by the Firm under the agreement include the provision of services by the Firm as BES Scheme Manager, full BES Scheme Particulars of the relevant BES Scheme;

(14) Material Interests and Conflicts
a statement (if it is the case) that the Firm has a right without prior reference to the Customer to effect transactions with or for the Customer in respect of which the Firm has
directly or indirectly a Material Interest (except for an interest arising solely from the mere participation of the Firm as agent for the Customer) or a relationship of any description with another party which may involve a conflict with the Firm’s duty to the Customer together with a disclosure of the nature of the interest or relationship;

(15) Use of Soft Commission Agreements

if the Firm is authorised under the agreement to effect transactions with or through the agency of another person with whom the Firm has a Soft Commission Agreement, the prior disclosure required by paragraph (e) of Rule 1.7(1);

(16) Acting as principal

that the Firm may act as principal in a transaction with the Customer;

(17) Contracting out of "Best Execution"

(a) that the Firm does not have a duty of Best Execution;

(b) the circumstances in which it does not have such a duty; and

(c) that, in relation to any transactions to which such a duty does not apply, the requirement for disclosure of the Firm’s remuneration, referred to in paragraph (4) above, does not apply;

(18) Customers’ assets

the matters set out in paragraph (13) of Appendix 2.4(1)(a).

APPENDIX 2.4(2)(b) FORM OF STATEMENT OF PROTECTION

2.2.98; RN37

IMRO Rules require that the terms on which we, as an IMRO-regulated Firm, provide you with any Investment Services be evidenced in writing; as a Non-private Customer you are entitled, if you so wish, to require such services to be provided on the terms set out below.

You may prefer a different form of agreement; but, unless we agree between us that some provision will be made for the terms listed, you will lose some of the protection which the Rules offer. You should, therefore, consider whether you wish your agreement to contain any of the following provisions.

PART I

GENERAL REQUIREMENTS

(1) Regulator

a statement that the Firm is regulated in the conduct of its Investment Business by IMRO;

(2) Services

a description of the nature of the services that the Firm will provide;

(3) Remuneration

in respect of any remuneration payable by the Customer to the Firm, provisions on:

(a) the basis of calculation;

(b) how it is to be paid and collected;

(c) how frequently it is to be paid; and

(d) whether or not any fees are to supplement or be abated by any other remuneration receivable by the Firm in connection with any transactions effected by the Firm with or for the Customer;

(4) Commencement of the Agreement

provision as to when and how the agreement is to enter into force;

(5) Termination Method

provision as to how the agreement may be terminated, including a statement:

(a) that termination will be without prejudice to the completion of transactions already initiated;
(b) of any agreed time after which, or any agreed event upon which, the agreement will terminate; and

(c) that if the Firm or the Customer has the right to terminate the agreement, he may do so by notice given to the Customer or, as the case may be, the Firm and a statement of the minimum period, if any, of such notice;

(6) Termination consequences

provision as to the way in which transactions in progress are to be dealt with upon termination;

(7) Complaints Procedure

guidance on how to complain to the Firm, including a statement that the Customer also has a right of complaint direct to the Investment Ombudsman.

PART II
PARTICULAR REQUIREMENTS

In addition, your Customer Agreement should contain some provision on each of the following matters if they are relevant to the services to be provided by us as an IMRO-regulated Firm:

(8) the holding of the Customer's money outside the UK;

(9) Contingent Liability Transactions and transactions in units in Unregulated Collective Investment Schemes;

(10) BES Schemes;

(11) Material Interests and conflicts of interest of the Firm;

(12) the use of Soft Commission Agreements;

(13) the Firm acting as principal;

(14) the Firm contracting out of "Best Execution";

(15) restrictions on the Investments comprising any Discretionary Managed Portfolio;

(16) Periodic Statements of the contents and valuation of any Managed Portfolio;

(17) borrowings to which the Customer may be committed to supplement the funds in a Discretionary Managed Portfolio;

(18) underwriting commitments to which the Firm may commit its Customer;

(19) the safeguarding and administration of Customer Investments.

Note:

Certain of the terms used in this Statement (which have initial capital letters) are defined in the IMRO Rules. We will give you an explanation of these terms should you so require.

SECTION 3 Dealing, Managing and Advising

3.1 SUITABILITY

3.1(1) Steps to ensure suitability of personal recommendations and discretionary transactions

16.2.96; RN24

Subject to Rule 3.1(2), a Firm must take reasonable steps to ensure that it does not in the course of Regulated Business or Associated Business:

A Firm should find out such facts about a Private Customer's personal and financial circumstances as are relevant to enable the Firm to act in compliance with Rule 3.1(1) in relation to the Investment Services to be provided. Where a Customer refuses to respond or provides incomplete information, a Firm should make a written record of that fact and of the attempts made to obtain the information from the Customer, and should inform the Customer that any Investment Services provided are based on such information as the Customer has supplied. The Firm should review, and be able to show that it has reviewed, the facts obtained about the Customer's personal and financial circumstances (including any changes in those circumstances), on which the provision of those Investment Services is based, at least once a year.
Where a Firm acts as a Broker Fund Adviser, the Firm should confirm to a Private Customer, as part of the annual review of the Customer's circumstances, that the Life Policy or Regulated Collective Investment Scheme in which he is invested is still in his best interests, based upon the most recent periodic report provided in accordance with paragraph (a) of Rule 4.5(7). If it is not, however, the Firm should recommend alternative action.

(a) make any personal recommendation to a Private Customer of an Investment or Investment Agreement; or

A Firm is not obliged to breach any Chinese Wall in order for it to comply with the requirement under this Rule to "take reasonable steps" to ensure that any relevant recommendation, or discretionary transaction, is suitable. Likewise facts known on the other side of a Chinese Wall are not "relevant facts" of which the Firm should be aware in order to comply with this Rule.

Note: Since paragraph (a) of Rule 3.1(1) applies only to "personal recommendations" and not to advice generally. Published Recommendations and Direct Offer Advertisements (other than an Advertisement which constitutes a personal recommendation) are not covered.

(b) effect or arrange a discretionary transaction with or for a Private Customer or, subject to Rule 3.1(3), any other Customer;

unless the recommendation or transaction is suitable for him having regard to the facts disclosed by that Customer and other relevant facts about the Customer of which the Firm is, or reasonably should be, aware.

Formal guidance on the application of Rule 3.1(1) to the recommendation of Pension Transfers and opt-outs can be found in Appendix 6.7(1).

3.1(2) Steps to ensure suitability when Customers' funds are pooled with others

Where, with the agreement of the Customer, a Firm has pooled his funds with those of others with a view to taking common management decisions, the Firm must, instead of complying with Rule 3.1(1), take reasonable steps to ensure that the transaction is suitable for the fund, having regard to the stated investment objectives of the fund.

3.1(3) Exception for transactions with Non-private Customers

The requirement in paragraph (b) of Rule 3.1(1) does not apply in the case of a Non-private Customer other than the trustee of an OPS or an OPS Collective Investment Scheme or a trustee of any other trust for whom, and to the extent that, a Firm acts as a Permitted Third Party in accordance with Rule 11.1(4) of this Chapter.

Note: Firms acting as the trustee or manager of the investments of an OPS are required by Sections 36(2) and 36(5) of the Pensions Act 1995 to have regard to the diversification and suitability of the scheme's investments with a view to giving effect to the scheme's statement of investment principles.

Section 35 of that Act requires OPS trustees to maintain and keep under review a statement of investment principles which sets out their policy on matters including kinds of investments to be held, asset allocation, risk and expected return, and realisation of investments. Firms may therefore be requested by the trustees of an OPS to advise on the preparation and review of the scheme's statement of investment principles.

3.1(4) Records to be kept

A Firm must take reasonable steps to ensure that the facts about a Private Customer which it is required by Rule 3.1(1) to take into account are recorded as soon as the Firm becomes aware of them. That record must be kept for at least three years after the Firm performed its last service for that Customer on the basis of those facts, except in the case of records which are or may be relevant to the recommendation or sale of transfers or opt-outs from Occupational Pension Schemes, and transactions involving Appropriate Personal Pension Policies or Contracts, effected since 29 April 1988, in which case such records must be kept indefinitely.

3.2 UNDERSTANDING RISK

3.2(1) Steps to ensure understanding of risk
(a) A Firm must not recommend a transaction to a Private Customer, or act as a discretionary manager for him, unless it has taken reasonable steps to enable him to understand the nature of the risks involved.

A Firm should give the Customer the substance of the risk warnings referred to in paragraphs (23) to (35) of Appendix 1.1, and paragraphs (15), (18) to (20) and (23), (25), (27) and (30) of Appendix 2.4(1)(a) so far as they are relevant to the transaction and have not been included in a Customer Agreement previously supplied to the Customer.

(b) Paragraph (a) of Rule 3.2(1) applies in the case of a trustee of an OPS and in the case of a trustee of an OPS Collective Investment Scheme and in the case of a trustee of any other trust, for whom, and to the extent that, a Firm acts as a Permitted Third Party in accordance with Rule 11.1(4) of this Chapter, whether or not the trustee is a Private Customer.

Note: Rule 3.1 also requires a Firm to take reasonable steps to ensure that any transaction it recommends or effects for a Private Customer is suitable for him.

3.2(2) Securities which may be subject to Stabilisation
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A Firm must not, in the exercise of discretion, deal with or for a Private Customer, or recommend him to deal, in Securities which may be subject to Stabilisation unless:

Note: Where a Firm itself is taking action for the purpose of stabilising the price of Securities, it must comply with applicable provisions of the statutory stabilisation rules in accordance with Rule 3.15(1) of this Chapter.

(a) the Firm is satisfied on reasonable grounds that at the time of the relevant deal or recommendation those Investments were not, and had not recently been, the subject of Stabilisation; or

(b) the Customer Agreement contemplates investment in Securities which may be subject to Stabilisation;

(i) the Customer Agreement includes, or there has been sent to the Customer before the relevant deal or recommendation, a notice substantially in the form set out in Table 3.2(2); and

(ii) before or at the same time as a recommendation, the Firm warns that it relates to Securities which may be subject to Stabilisation and reminds the Customer of the notice referred to in sub-paragraph (b)(ii) above.

3.3 MATERIAL INTERESTS
3.3(1) Fair treatment
1.7.95; RN13

Where a Firm has a Material Interest in a transaction to be entered into with or for a Customer or a relationship which gives rise to a conflict of interest in relation to such a transaction, the Firm must not knowingly either advise, or deal in the exercise of discretion, in relation to that transaction unless it takes reasonable steps to ensure fair treatment for the Customer.

In order to comply with this Rule, a Firm should:

(a) disclose to the Customer (whether in a Customer Agreement or otherwise) any Material Interest or conflict of interest or duty it has in relation to a transaction before it advises that Customer about the transaction, or deals on behalf of that Customer in the exercise of discretion; and believe on reasonable grounds that the Customer does not object to that Material Interest or conflict; or

(b) if disclosure is impracticable, disregard the interest or conflict, so that any disadvantage to the Customer is avoided; or

(c) ensure that any such Material Interest or conflict is eliminated.

The following are examples of Material Interests or conflicts of interest which Firms should disclose:

dealing as principal (unless the Firm is acting as a Market Maker);
dealing as dual agent;
dealing in issues which have been underwritten by a Firm;
recommendations to buy or sell investments in which a Firm may have, respectively, a Long or Short Position, especially where the investments are not Readily Realisable Investments;
acting as a Broker Fund Adviser.

For a Firm which is a Broker Fund Adviser, a necessary step to ensuring fair treatment
for a Private Customer would be to obtain a signed acknowledgement from the Customer
indicating that he understands the nature of the Firm's dual role as adviser to the Customer
and adviser to the Life Office or Operator in question, especially where any remuneration
receivable by the Firm, or its Associate, for acting in that capacity would be greater than it
would otherwise be when recommending to the Customer a Life Policy or units in a Regulated
Collective Investment Scheme.

Firms are reminded of the recommended disclosures in Appendix 2.4(1)(a) paragraphs (27) and (30), Appendix 2.4(1)(b) paragraph (3), Appendix 2.42(2)(a) paragraph (14).

However, such disclosure would not be expected if the Firm had a Chinese Wall and none of the
relevant individuals knew the relevant facts (see Rule 4.2(1) of Chapter 1).

For a Firm which is a BES Scheme Manager, a necessary step to ensuring fair treatment is the
establishment of arrangements for Independent Approval of investment decisions in relation to
transactions in which the Firm has a Material Interest or conflict of interest other than an
interest described in paragraph (24) of Table 8.2(1) of this Chapter.

Note:
Firms are obliged under Principle 6 not to place their own interests unfairly above those of
their Customers, and of their duties under Rules 3.1(1) (Suitability) and 3.8(1) (Best
Execution) when effecting transactions in which they may have a Material Interest or conflict of interest.

3.4 REASONABLE CHARGES

3.4(1) Firm's Charges to Private Customers

The amount of a Firm's Charges to a Private Customer for the provision of Investment Services
to him must not be unreasonable in the circumstances.

Note:
In determining whether or not Charges are reasonable in the circumstances, IMRO will take
account of prevailing industry practice for the types of products or services concerned.

3.4(2) Remuneration in respect of Investments which are not Readily Realisable Investments

Where the amount of a Firm’s Charges for advising on or managing a Customer’s assets is in any
way dependent upon the value of Investments which are not Readily Realisable Investments, the
valuation of those assets must be based upon the price likely to be agreed between a willing
buyer and a willing seller dealing at arm's length who are both in possession of all freely
available information concerning the Investments.

Firms should have the basis of valuation confirmed or approved by an independent expert on an
arm's length basis.

3.5 INFORMATION ABOUT THE FIRM’S REMUNERATION

3.5(1) Disclosure requirements

Subject to any exceptions contained in the Rules, before a Firm provides Investment Services
to a Private Customer (other than an Indirect Customer), it must disclose to him the basis or
amount of its Charges for the provision of those services and the nature or amount of any
other remuneration receivable by it (or, to its knowledge, by its Associate) and attributable
to them.

Disclosure for the purposes of this Rule may be disclosure in a Customer Agreement of the
matters set out in paragraph (3) of Appendix 2.4(1)(a) or paragraph (4) of Appendix 2.4(2)(a)
or, in the case of a Packaged Product, disclosure of charges and expenses included in the Key
Features information required by Rule 6.2(3) or provided in a statement on commission or
Commission Equivalent in accordance with Rule 6.4(1) or (2).

Note:
“Charges” includes any Mark-up or Mark-down from the price at which Best Execution would be achieved.

Note:
If the Firm is providing Investment Services relating to Packaged Products, the Firm must comply with the disclosure requirements set out in Rules 6.4(1) and (2).

Note:
A Firm which is the Operator of an Authorised Unit Trust Scheme is also required by Rule 7.6(1) to observe the applicable requirements of the Regulated Schemes Regulations.

3.6 CUSTOMER ORDER PRIORITY

3.6(1) Dealing fairly and in due turn

A Firm should deal with Customer and own account orders fairly and in due turn.

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The requirement to deal with Customer and own account orders “fairly and in due turn” does not preclude:

(a) an effecting an Own Account Transaction in an Investment or any related Investment before the execution or withdrawal of a Current Customer Order in that Investment if the Firm believes on reasonable grounds that to do so is in the best interests of the Customer; or

(b) postponing execution of a Current Customer Order where:

(i) the Firm is dealing for the account of one Associate ahead of another; or

(ii) the person dealing for the Customer neither knew or ought reasonably to have known of an earlier unexecuted Current Customer Order; or

(c) where the Firm is a Regulated Insurance Company dealing solely for the account of its life fund, treating the life fund as if it were a Customer; or

(d) where the Firm is dealing solely for the account of an Investment Trust or a Collective Investment Scheme which is a Body Corporate, which in either case is in the same Group as the Firm, treating the Investment Trust or Scheme as if it were a Customer; or

(e) where the Firm is dealing, on a proper basis of pre-established and recorded principles which are generally applicable, solely for the account of an employee of the Firm or its Associate (who is not himself an Associate of either of them) or the Close Relative of such an employee or a trustee acting on behalf of either of them, treating such employee, Close Relative or trustee as if he were a Customer.

3.7 TIMELY EXECUTION

3.7(1) Requirements for timely execution

(a) Once a Firm has agreed or decided in its discretion to effect or arrange a Current Customer Order, it must effect or arrange the execution of the order as soon as reasonably practicable in the circumstances.

(b) But this Rule does not preclude a Firm from postponing execution of an Order where it believes on reasonable grounds that this is in the best interests of the Customer.

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Note:
Rule 1.6(2) of Chapter IV requires a Firm to keep a record both of the date and time at which it receives a Customer’s instructions, or when it decides to deal for a Discretionary Managed Portfolio, and the date and time of transactions effected by it or on its instructions (paragraphs 1 to 4 of Part I of Table 1.6(2) of Chapter IV). It is against these records that a Firm will be judged on whether it effected a transaction as soon as reasonably practicable in the circumstances.

Reasonable grounds for believing that postponement is in the best interests of its Customer may include where the deal ordered is an aggregated transaction for one or more Customers, or for the Firm and one or more Customers (including all those who would otherwise have priority
over any other person for whom the deal is done) and the deal is advantageous for all either because individual deals for each Customer are not practicable, or because it is desirable to deal collectively in order to secure Best Execution for all.

3.8 BEST EXECUTION

3.8(1) When and how to provide Best Execution

(a) Where a Firm deals with or for a Private Customer, it must provide Best Execution.

(b) A Firm must also provide Best Execution where it fulfils an Order from a Non-private Customer.

(c) A Firm may rely on another person who executes the transaction to provide Best Execution, but only if it believes on reasonable grounds that he will do so.

(d) For the purposes of this Rule, a Firm provides Best Execution if:

(i) it takes reasonable care to ascertain the price which is the best available for the Customer in the relevant market at the time for transactions of the kind and size concerned; and

(ii) unless the circumstances require it to do otherwise in the interests of the Customer, it deals at a price which is no less advantageous to him;

and in applying this Rule on Best Execution, a Firm should leave out of account any Charges disclosed to the Customer which it or its agent would make.

(e) This Rule does not require a Firm to provide Best Execution on a purchase of a Life Policy or on a purchase from the Operator of a Regulated Collective Investment Scheme of units in the scheme.

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Note:
This does not apply where the Firm has contracted out under Rule 3.8(2) below.

In judging whether any price is "the best available", the Firm may take into account all relevant considerations, including, for example:

(a) whether the person who is offering such best available price is considered by the Firm on reasonable grounds to be reliable; or

(b) whether, if the Firm has a continuing agreement with the Customer, and is dealing at a price which is less advantageous than the price which is the best available for the Customer in the relevant market at the time for the transactions of the kind and size concerned, the Customer can expect compensating advantages in other transactions which should provide Best Execution for that Customer over a period or a series of transactions. In such circumstances, however, the Firm would need good grounds for foreseeing such compensating advantages and the decision would need to be taken, and justified, in respect of each separate transaction as it arose.

In executing any transaction on behalf of a Customer, the Firm should, in ascertaining the price which is the best available for a Customer in the relevant market at the time for transactions of the size and kind concerned, take into account all Mark-ups, Mark-downs, commissions, fees and charges payable to or receivable by the other party with whom the Firm is executing the transaction. In determining the price to be paid or received, the Firm should take into account any foreign exchange transaction entered into in connection with the deal.

Note:
Under Rule 3.4(1) a Firm's charges for providing Investment Services must not be unreasonable. Rule 3.5(1) requires their basis or amount to be disclosed in advance.

Note:
The SFA rules will apply to Firms when acting as Market Makers in any Investment (except when acting as the Operator of a Collective Investment Scheme): see Rule 3.16(2) of this Chapter.

Note:
Rule 1.6(2) of Chapter IV requires a Firm to keep a detailed record of Customer Transactions effected by it or on its instructions (paragraphs 1 to 4 of Part I of Table 1.6(2) of Chapter IV). The more scrupulously these records are kept, the easier it will be for the Firm to prove Best Execution for all transactions.

3.8(2) Contracting out of Best Execution
(a) A Firm may contract out of its duty to secure Best Execution for a Non-private Customer whose Customer Agreement permits the Firm to do so or who otherwise agrees in writing that the Firm may do so.

(b) Paragraph (a) of Rule 3.8(2) shall not apply where the Non-private Customer is the trustee of an ODS or an OPS Collective Investment Scheme, or the trustee of any other trust for whom, and to the extent that, a Firm acts as a Permitted Third Party in accordance with Rule 11.1(4) of this Chapter.

3.9 TIMELY ALLOCATION

3.9(1) Prompt allocation of transactions

A Firm must ensure that a transaction it executes is promptly allocated.

Where a Firm has dealt collectively for Customers, or for one or more Customers and itself, allocation of the transaction should be completed as soon as possible after the transaction is effected. Where there is any delay in completing the allocation, particularly where the intended basis of allocation has not been determined in advance of dealing, the reason for the delay should be fully documented.

3.9(2) Recording allocation

A Firm must make a record of the intended basis of allocation:

Note:

Rule 1.6(2) of Chapter IV also requires a Firm to make a record of how each aggregated deal is actually allocated (paragraph 6(ii) of Part I of Table 1.6(2) of Chapter IV).

(a) when the Firm is dealing for one or more Customers, either before or as soon as possible after the transaction is effected; or

(b) when the Firm is dealing for one or more Customers and itself, before the transaction is effected;

and that record must be kept for at least five years.

3.9(3) Re-allocation

If a Firm discovers an error, either in the intended basis of allocation or in the actual allocation, it may recommence the allocation on a different and correct basis provided that:

(a) a written record of the reason for reallocation is made at the time of reallocation; and

(b) it complies with all of the other provisions of Rules 3.9(1) and (2) so far as applicable.

3.9(4) Time for allocation when there is a series of transactions

(a) When a Firm effects a Series of Transactions during a period of 24 hours starting with the first transaction, or during a succession of 24-hour periods, all transactions in the series shall be treated, for the purposes of Rules 3.9(1) and (2), as having been effected:

(i) where the series took place within a single 24-hour period, at the time of the last transaction in the series; and

(ii) where the series took place over a succession of periods of 24 hours, then for each 24-hour period, at the end of that period, save that for the last period the time shall be that of the last transaction.

(b) Each of the periods described above is an "allocation period".

3.9(5) Time for allocation when there is a series of transactions for an ISA or a PEP
In relation to a Series of Transactions effected for one or more ISAs or PEPs, a Firm may construe Rule 3.9(4) above as if any reference to one or more 24-hour periods were a reference to one or more periods of three days (and the meaning of "allocation period" shall be amended accordingly), provided that the Firm reasonably believes that it is necessary so to effect those transactions in order to achieve Best Execution.

3.9(6) Time for allocation when there is a series of transactions in overseas Investments

In relation to a Series of Transactions in Investments in Companies incorporated outside the UK, a Firm may construe Rule 3.9(4) above as if any reference to one or more 24-hour periods were a reference to one or more periods of seven days (and the meaning of "allocation period" shall be amended accordingly), provided that the Firm reasonably believes that it is necessary so to effect those transactions in order to achieve Best Execution.

3.10 FAIR ALLOCATION

3.10(1) Allocation of aggregated orders

Where a Firm has aggregated an Order for a Customer Transaction with an Order for an Own Account Transaction, or with another order for a Customer Transaction, then in the subsequent allocation:

(a) it must not give unfair preference to itself or to any of those for whom it dealt; and

To avoid giving anyone "unfair preference" in allocating aggregated orders, allocations should be made in a manner which:

(a) is fair as between the Firm and its Customers and among its Customers themselves;

(b) is reasonable in the interests of all; and

(c) does not conflict with any relevant Customer's instructions or the provisions of his Customer Agreement.

(b) if all cannot be satisfied, it must give priority to satisfying orders for Customer Transactions unless it believes on reasonable grounds that, without its own participation, it would not have been able to effect those orders either on such favourable terms or at all.

For the purposes of Rule 3.10(1) a Firm may treat the following transactions as Customer Transactions:

(a) where the Firm or a person in the same Group as the Firm is a Regulated Insurance Company, a transaction solely on the account of its life fund;

(b) a transaction solely for the account of an Investment Trust or a Collective Investment Scheme which is a Body Corporate, which in either case is in the same Group as the Firm; or

(c) a transaction solely for the account of an employee (or his Close Relative) of the Firm or its Associate, or a trustee acting on behalf of either of them, where the transaction was run on a proper basis of pre-established and generally applicable recorded principles and the employee is not himself an Associate of the Firm or of its Associate.
3.10(2) Price at which allocations are to be effected

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Each aggregated transaction shall be allocated at the price paid per unit allocated (taking into account all relevant fees and commissions); but if it is one of a Series of Transactions effected in accordance with Rules 3.9(4) to (6), then a uniform price may be attributed to each unit, that price being calculated as the weighted average of the prices paid in all of those transactions in the series effected during the same allocation period, or during the allocation period in which the relevant transaction was effected.

Note:
The expression “allocation period” is defined in paragraph (b) of Rule 3.9(4). Firms should also note the use of that expression in Rules 3.9(5) and (6).

The method of calculating the weighted average price can be illustrated by the following example:

Transaction 1
100 shares in X plc bought at
Å£1 each at 10am

Transaction 2
400 shares in X plc bought at
Å£2 each at 1pm

The average price per transaction would be Å£1.50, i.e. [insert graphic]

The weighted average price attributable to each transaction in the series would be Å£1.80, i.e. [insert graphic]

3.10(3) Application of uniform standards

1.7.95; RN13

Each allocation made by a Firm must be made in accordance with standards and procedures which are uniform for all allocations made by the Firm.

A Firm should have formal, established procedures governing the allocation of transactions which are sufficient to enable it to comply with the requirements of Rules 3.9(1) to (6) and 3.10(1) to (3).

3.11 CHURNING AND SWITCHING

3.11(1) Fair dealing

1.7.95; RN13

(a) A Firm must not:

(i) make a personal recommendation to a Private Customer to deal; or

(ii) deal or arrange a deal in the exercise of discretion for any Customer;

if the dealing would reasonably be regarded as too frequent in the circumstances.

In judging whether any dealing would or would not be regarded as too frequent in the circumstances, a Firm should take into account:

(a) a Customer's investment objectives as previously notified to the Firm; and

(b) the understanding which a Customer may reasonably be expected to have of the Firm's policy in relation to its management of the Customer's assets and Investments.

(b) A Firm must not:

(i) make a personal recommendation to a Private Customer to switch within a Packaged Product or between Packaged Products; or

(ii) effect such a switch in the exercise of discretion for a Private Customer;
unless it believes on reasonable grounds that the switch is justified from the Customer's viewpoint.

3.12 DEALING AHEAD OF PUBLISHED RESEARCH OR ANALYSIS

3.12(1) Restriction on dealing

Subject to Rules 3.12(2) and (3), where a Firm or its Associate intends to publish to Customers a recommendation or a piece of research or analysis, it must not knowingly effect an Own Account Transaction in the Investment concerned or any related Investment until the Customers for whom the publication was principally intended have had (or are likely to have had) a reasonable opportunity to react to it.

3.12(2) Published Recommendations affected by the restriction

The restriction in Rule 3.12(1) applies only to a recommendation or a piece of research or analysis contained in a Published Recommendation and which the Firm has reason to believe is likely significantly to affect the price of the Investment, or any related Investment, in which the Firm either proposes to effect an Own Account Transaction or procure somebody else to deal.

3.12(3) Exceptions

Notwithstanding the restriction on dealing contained in Rule 3.12(1) , a Firm may buy, or procure someone else (the "third party dealer") to buy, the Investment concerned before Customers have had a reasonable opportunity to react to the relevant recommendation or research or analysis if:

(a) the Firm reasonably believes that the publication will result in Customers wishing to buy that Investment from it or the third party dealer; and

(i) the Firm or the third party dealer buys no more than the Firm reasonably believes to be sufficient to satisfy anticipated demand;

16.2.96; RN24

A Published Recommendation may be treated for the purposes of Rule 3.12(1) as being "principally intended" for those Customers to whom it was sent.

Note:

This restriction will not apply if the relevant transaction is arranged and carried out by individuals on the other side of a Chinese Wall who do not know the relevant facts (see Rule 4.2(1) of Chapter I).

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(ii) the Firm reasonably believes that the purchases made by itself or the third party dealer will not in themselves significantly increase the prevailing market price of the Investment; and

(iii) the Firm discloses the details of purchases made by itself or the third party dealer in the relevant Published Recommendation; or

(b) the research or analysis on which the Published Recommendation was based was procured by the Firm for its own purposes and the Published Recommendation is accompanied by a statement that such research or analysis was so procured, and may have been acted on, by the Firm for its own purposes.

3.13 CONTINGENT LIABILITY TRANSACTIONS

3.13(1) Restrictions on Contingent Liability Transactions

A Firm must not effect, arrange or recommend a Contingent Liability Transaction with, for or to a Private Customer unless:

(a) the transaction is made on a Recognised or Designated Investment Exchange; or

(b) the Firm believes on reasonable grounds that the purpose of the transaction is to hedge against currency risk involved in a position which the Customer holds.

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3.14 PROHIBITION ON INSIDER DEALING
3.14(1) Statutory restrictions on dealing

(a) A Firm must not effect (either in the UK or elsewhere) an Own Account Transaction when it knows of circumstances which mean that it, its Associate, or an employee of either, is prohibited from effecting that transaction by the statutory restrictions on insider dealing.

(b) A Firm must use its best endeavours to ensure that it does not knowingly effect (either in the course of Regulated Business or otherwise) a transaction for a Customer it knows is so prohibited.

(c) But paragraphs (a) and (b) above do not apply where:

(i) the prohibition applies only because of knowledge of the Firm’s own intentions; or

(ii) the Firm is a Recognised Market Maker with obligations to deal in the Investment; or

(iii) the Firm is a trustee or personal representative who acts on the advice of a third party appearing to be an appropriate adviser who is not so prohibited.

3.14(2) Requirement to notify IMRO

If a Firm has reasonable cause to believe that it has effected a transaction prohibited under Rule 3.14(1), it must inform IMRO immediately.

16.2.96; RN24
1.7.95; RN13

3.15 STABILISATION OF SECURITIES

3.15(1) Statutory restrictions on stabilising

Where a Firm takes action (either in the course of Regulated Business or otherwise) for the purpose of stabilising the price of Securities, it must comply with any applicable provisions of the Statutory Stabilisation Rules.

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Note:

Rule 3.2(2) governs the steps which a Firm must take before dealing, or recommending a deal in Securities which may be subject to Stabilisation.

3.16 MARKET MAKING

3.16(1) Requirements for selling unquoted Securities to Private Customers

Where a Firm sells to a Private Customer any Securities which are not quoted on a Recognised or Designated Investment Exchange, whilst giving the customer the impression that the Firm is a Market Maker in the Investment concerned, it must:

(a) give notice to the Customer that it is required to ensure that a reasonable price for repurchase of the Investment is available to him for a specified period which must not be less than three months after the date the notice is given; and

(b) ensure that such a price is available to him for that specified period.

3.16(2) Market Making

A Firm must observe the applicable rules of the SFA when acting as a Market Maker in any Investment.

30.11.91

Note:

Rule 7.1(2) disapplies Rules 3.16(1) and (2) to a Firm which is an Operator of a Collective Investment Scheme when undertaking Scheme Management Activity.

1.4.92; RS4

Table

Table 3.2(2)

Table 3.2(2)Dealing in Securities which may be subject to Stabilisation
This statement is made in compliance with Rule 3.2(2) of the IMRO Rules.

[Name of Firm] or its representatives may from time to time recommend to you or effect on your behalf transactions in securities the price of which may have been influenced by bids made or transactions effected for the purpose of stabilising the price of those securities. You should read the explanation below carefully. Its purpose is to enable you to judge whether you wish your funds to be invested at all in such securities and, if you do, whether you wish to authorise. [Name of Firm] generally to effect transactions in such securities on your behalf without further reference to you or whether to you wish to be consulted before any particular transaction is effected on your behalf.

Stabilisation is a process whereby the market price of a security is pegged or fixed during the period in which a new issue of securities is sold to the public. Stabilisation may take place in the securities of the new issue or in other securities related to the new issue in such a way that the price of the other securities may affect the price of the new issue or vice versa.

The reason stabilisation is permitted is that when a new issue is brought to market the sudden glut will sometimes force the price lower for a period of time before buyers are found for the securities on offer.

As long as he obeys a strict set of rules, the "stabilising manager", normally the issuing house chiefly responsible for bringing a new issue to market, is entitled to buy securities in the market that he has previously sold to investors or allotted to institutions who were included in the new issue but who have decided not continue participating. The effect of this may be to keep the price at a higher level than would otherwise be the case during the period of stabilisation.

The statutory stabilisation rules limit the period in which a stabilising manager may stabilise a new issue, fix the price at which he may stabilise (in the case of shares and warrants but not bonds), and require him to disclose that he may be (but not that he is) stabilising.

The fact that a new issue or a related security is being stabilised does not in itself mean that investors are not interested in the issue, but neither should the existence of transactions in an issue where stabilisation may take place be relied upon as an indication that investors are interested in the new issue or interested in purchasing at the price at which transaction are taking place.

APPENDIX 3.1(1) SUITABILITY: CONTRACTING OUT OF STATE EARNINGS RELATED PENSION SCHEMES (SERPS)

31.10.97; RN43

This Appendix provides Firms with formal guidance on the application of Rule 3.1(1) to the recommendation of personal pensions to investors contracting out of SERPS:

1 Changes to Government incentives and rebates

(a) Firms should be aware that the former 2% Government incentive ceased to be available from 6 April 1993. In addition, from the same date the combined employer/employee National Insurance rebate reduced by 1% to 4.8% in respect of investors aged under 30. There is an additional rebate of 1% (making a total of 5.8%) for those aged 30 and over available to those contracting out with a personal pension but not to those in a Contracted Out Money Purchase Scheme (COMP).

(b) In the light of those changes, Firms should take account of the following factors before advising or recommending an investor to contract out of SERPS into an appropriate personal pension plan:

- age and sex of investor
- level of earnings
- career prospects
- existing pension provision or opportunities for a company pension
- the individual's tax position
- loss of rights to SERPS benefits
- the availability and amount of any Government incentive.

(c) IMRO expects relevant facts to be properly recorded in accordance with Rule 3.1(4).

(d) It will also be essential to undertake a careful analysis which compares the benefits to be gained from a personal pension with what an investor may be giving up by leaving SERPS. In particular, there must be a clear understanding of the range of ages, for men and women, beyond which it would be generally in the best interests of prospective investors to remain in SERPS. IMRO expects Firms to be able to justify the recommendation to a Private Customer of an appropriate personal pension plan, and, in accordance with existing formal guidance, to keep under review the facts about the Customer's circumstances on which that recommendation was based.

2 Review of existing pension policyholders' circumstances

(a) A decision to opt out of SERPS should not be regarded as final but should be subject to review, especially if circumstances should change. It is on this basis that 'SERPS Opt-out' pension plans are sold. In accordance with existing formal guidance to the suitability Rule, Firms should therefore have made arrangements to review the circumstances of policyholders for whom the post - April 1993 developments could have meant that remaining opted out of SERPS was no longer suitable. These reviews should have been undertaken over the twelve months from April 1993. Customers whose policies were most likely to have required review are those who over the age ranges referred to above, or those whose earned income was slightly above the lower earnings limit. Where earnings were low, Firms should have borne in mind that the Government was withdrawing the minimum "underpin" of £1 per week credit granted to everyone who contracted out regardless of the level of earnings (subject only to their being above the lower earnings limit). Firms should also have noted that the costs of setting up a personal pension would exceed the smaller rebate sums available at the lower income levels.

(b) Guidance issued by FSA and LAUTRO recommended their members to review the positions of all relevant policyholders. It was open to Firms which were independent intermediaries to make arrangements with the life offices with whom they had placed business so as to avoid duplication of investor reviews. Firms would be regarded as having met the terms of this Guidance if they satisfied themselves that a life office was drawing these matters to the attention of policyholders and was offering a review of their circumstances either by the life office or by the Firm according to the arrangements negotiated.

3 Contracted-out Money Purchase Schemes (COMPS)

(a) The cessation of the 2% Government incentive also applied in the case of Contracted-Out Money Purchase Schemes (COMPS). The National Insurance rebate available in the context of COMPS was reduced by 1% and the new lower figure of 4.8%, in the case of COMPS, applies irrespective of the investor's age.

(b) Firms may consider advising a current COMPS investor aged 30 and over to transfer to an appropriate personal pension plan, in view of the more favourable National Insurance rebate terms which will be available. However, Firms should bear in mind that the 1% advantage may be offset by a delay of around 18 months in receipt of the rebate. Additionally, the 1% advantage may be offset by the possibility of extra plan charges. Some pension providers impose an extra plan charge on an appropriate personal pension plan which is not applicable to the protected rights portion of a COMP. Where earnings are low, this can be a significant factor which should be taken into account. Firms should assess the merits of a switch from COMPS very carefully in the light of the investor's circumstances before advising the investor to proceed, and should keep proper records of the basis for the recommendation.

(c) Finally, Firms are reminded that the Government plans to review the rebate system during the course of 1996, when further changes may require specific review.

APPENDIX 3.8(1)(a) BEST EXECUTION UNDER SETS

20.10.97; RN40

The 'relevant market'

1.1 Rule 3.8(1) does not require a Firm to access competing exchanges or markets in respect of a particular transaction. The Rule operates on the basis that a Firm should first select the 'relevant market' on which to deal. Having chosen the relevant market on which to deal, a Firm needs to ensure that it achieves Best Execution in accordance with Rule 3.8(1), unless Rule 3.8(2) applies. In the context of securities traded on the Stock Exchange Electronic Trading Service (SETS), relevant markets include The London Stock Exchange and Tradepoint.

1.2 Whilst the requirement to achieve Best Execution applies only once the 'relevant market' has been chosen, Firms should keep under review whether access to more than one relevant market or price display system would be in the interests of their Customers.
1.3 Where a Firm has access to more than one competing exchange or market, the prices available on those markets will be a factor in determining which is the relevant market on which to deal. Other factors may include settlement and administration costs.

Executing deals without using a broker

1.4 Where a Firm executes a transaction on the SETS order book at the best bid or offer price, this will constitute Best Execution.

1.5 Paragraph (d) of Rule 3.8(1) recognises that the best price may vary, depending on the size of the transaction concerned. Where a Firm has an order in a size that can be accommodated on the order book, but not wholly at the best bid or offer price, and the Firm executes the order on the order book, Best Execution will be achieved in the order is executed at the volume-weighted average price of the orders displayed on the order book needed to fill that order. In these circumstances, the 'best price' will be a precise calculation, and IMRO will generally expect a Firm to match or better this price if it executes the order away from the order book.

1.6 A Firm should take reasonable care to ascertain the best price where the order concerned is larger than the totality of orders displayed on the order book, and in circumstances where there are no relevant bids or offers for the security on the order book. In doing so, the Firm should have regard to relevant price information - including information on recently executed trades of a similar size - and to prevailing market conditions.

1.7 In taking reasonable care to ascertain the best price for orders below the minimum order book size, a Firm should exercise its judgement, having regard to the best price on the order book for the security concerned and any prices or quotes available to it. Unless the Firm obtains the best price available on the order book, IMRO would expect it to be able to compare prices or quotes from at least two relevant sources.

1.8 Firms are reminded that Rule 3.8(1) requires a Firm, in applying Best Execution, to leave out of account any Charges disclosed to the Customer which it or its agent would make. Such Charges - including any additional Charges resulting from non-standard settlement - should be disclosed separately to the Customer in accordance with Rule 3.5(1) (Information about the Firm's remuneration).

Executing deals using a broker

1.9 Paragraph (c) of Rule 3.8(1) allows a Firm to rely on another person who executes the transaction to provide Best Execution, but only if it believes on reasonable grounds that he will do so. Where a Firm places an order in a SETS security for execution and settlement by an SFA-regulated firm, the latter will be subject to SFA's rules and guidance on Best Execution. In these circumstances, it will be reasonable for the Firm to rely on the SFA-regulated firm to achieve Best Execution (although Firms should take note of paragraph 1.10 below).

Evidence of Best Execution

1.10 For all transactions, Firms will be aware of the Note to Rule 3.8(1), which states that "Rule 1.6(2) of Chapter IV requires a Firm to keep a detailed record of Customer Transactions effected by it or on its instructions (paragraphs 1 to 4 of Part I of Table 1.6(2) of Chapter IV). The more scrupulously these records are kept, the easier it will be for the Firm to prove Best Execution for all transactions."

SECTION 4 Records and Documents

4.1 FAIR AND CLEAR COMMUNICATIONS

4.1(1) Requirements to ensure fair and clear communication

(a) A Firm may make a communication with another person which is designed to promote the provision of Investment Services only if it can show that it believes on reasonable grounds that the communication is fair and not misleading.

(b) A Firm must take reasonable steps to ensure that any agreement, written communication, notification or information which it gives or sends to a Private Customer to whom it provides Investment Services is presented fairly and clearly.

30.11.91

In the case of an Investment Advertisement a Firm may comply with Rule 4.1(1) by showing that it complies with paragraph (a)(ii) of Rule 1.1(1).

A Firm may comply with paragraph (b) of Rule 4.1(1) if it believes on reasonable grounds that the agreement, written communication, notification or information was first given or sent out by an Authorised Person.
4.2 INFORMATION ABOUT THE FIRM

4.2(1) Adequacy of information

A Firm must take reasonable steps to ensure that a Private Customer to whom it provides Investment Services is given adequate information about its identity and business address, the identity and status with the Firm of employees and other relevant agents with whom the Customer has contact and the identity of the Firm’s regulator.

1.7.95; RN13

Note:

Firms have additional obligations to disclose information under Rule 6.1.

In complying with Rule 4.2(1) a Firm should:

(a) in the case of a written communication, on stationery or other business documentation (including business cards), include at least the particulars listed below:

(i) the name, business address and telephone number of the Firm or of the branch or office of the Firm from which the communication originates;

(ii) the name and status, or relationship with the Firm, of the originator of such communication; and

(iii) a statement that the Firm is regulated by IMRO in the conduct of its Investment Business or that the Firm is regulated by IMRO;

(b) in the case of an oral communication by a Company Representative of the Firm or of its Appointed Representative, deliver to the Customer a statement in writing (which may take the form of a business card) containing the particulars listed below either before progressing beyond the social preliminaries or, in the case of a telephone conversation which the Company Representative intends to follow up, as soon as reasonably practicable after the conversation has ended, unless such a statement has been given to the Customer on a previous occasion and that statement is still up-to-date. The particulars referred to above are:

(i) the name and telephone number of the Company Representative;

(ii) the Firm's name and the address and telephone number of the Firm's branch or office to which the Company Representative reports;

(iii) that the Firm is regulated by IMRO in the conduct of its Investment Business or that the Firm is regulated by IMRO;

(iv) if the Company Representative is an Officer or employee of the Firm's Appointed Representative, the name, address and telephone number of the Appointed Representative; and

(v) if the Company Representative represents Marketing Group Associates of the Firm, that fact and the names of those Marketing Group Associates or a fair summary description of the group to which those Marketing Group Associates belong with an indication of the nature of the association and, if it is the case, that the Company Representative represents all of the Marketing Group Associates in the group.

However, Firms should ensure that their Appointed Representatives, through either written or oral communication, do not imply that they are directly regulated by IMRO in the conduct of their Investment Business.

4.3 REPORTING TRANSACTIONS

4.3(1) ISD Firms to report transactions

Subject to Rule 4.3(2), an ISD Firm must report to IMRO details of each Reportable Transaction.

4.3(2) Reporting arrangements

An ISD Firm will not be required to make a report to IMRO in accordance with Rule 4.3(1) if:

(a) the transaction is reported to SFA either by the Firm itself or by a member of SFA as counterparty to the transaction; or

(b) the transaction is carried out on a Regulated Market and the Firm is satisfied that a report will be made to the authorities responsible for regulating that market; or

(c) the Firm arranges for another person to report the transaction as agent on its behalf,
and informs IMRO of the existence of that arrangement.

4.3(3) Form and content of reports

The report required by Rule 4.3(1) must be in such form as IMRO may prescribe, and must include the following details:

(a) the identity of the relevant Investment, and the number of units bought or sold;
(b) the date and time of the transaction;
(c) the price paid or received; and
(d) the identity of any other European Investment Firm which is a counterparty to the transaction.

Note:
The transactions which will need to be reported directly to IMRO, and the way in which they should be reported, are explained in the Transaction Reporting Handbook.

4.3(4) Time limits for reporting

The report required by Rule 4.3(1) must be made no later than the end of the business day following the day on which the transaction is effected.

In the case of a Reportable Transaction carried out by an ISD Firm through National Savings, for the purposes of paragraph (b) of Rule 4.3(3) and Rule 4.3(4) the transaction will be considered to have taken place at the time of receipt of confirmation from National Savings.

Note: Under Rule 1.6(2) of Chapter IV a Firm must make and keep records of transactions as specified in Table 1.6(2) of that Chapter.

4.3(5) Other reporting requirements

A Firm must comply with any obligation it may have to report transactions under the rules of a Recognised or Designated Investment Exchange including, in the case of an ISD Firm, the rules of a Regulated Market.

4.4 CONTRACT NOTES

4.4(1) Providing essential details of transactions

Subject to Rules 4.4(2) and (3), a Firm which effects a sale or purchase of an Investment (other than a Life Policy) with or for a Customer must ensure that he is sent with due despatch a note containing the essential details of the transaction.

Note: A note of the essential details of a transaction may be given in writing or electronically. Such a note is defined in the Definitions Schedule as a "Contract Note".

IMRO has set the following standards for meeting the requirements of Rule 4.4(1):

Due despatch:
See Part II of Appendix 4.4(1)

Essential details:
See Section 1 of Part I of Appendix 4.4(1).

4.4(2) Cases where Contract Notes are not required

A Firm shall not be required to ensure that a Contract Note is sent under Rule 4.4(1):

(a) in relation to a Contingent Liability Transaction, where the Firm has been requested by a Customer not resident in the UK not to send Contract Notes to him or the Firm has reasonable grounds for believing that such Customer does not wish to receive them; or

(b) in any other case, where the Firm has been requested by any Customer not to send Contract
Notes to him or the Firm has reasonable grounds for believing that the Customer does not wish to receive them; or

Note: Under Rules 4.5(1) to (7) Firms are required to give particulars of transactions in Periodic Statements sent to Customers and to maintain records of them. These requirements continue to apply even where Firms rely on one or more of the exceptions in Rule 4.4(2).

A Customer may make his request under paragraph (a) or (b) of Rule 4.4(2) generally in the Customer Agreement or on specific occasion.

(c) in the case of an arrangement with the Firm for the making of a series of payments by the Customer for the purchase of units in a Regulated Collective Investment Scheme or of shares in Investment Trust Companies (including ad hoc payments made in addition to those in the series); or

A Firm may rely on this exception regardless of whether the units or the Investment Trust Company’s shares are bought by the Firm as Investment Manager, ISA manager or in any other capacity. [RN48]

(d) in the case of a Discretionary Managed Portfolio which may invest only in Regulated Collective Investment Schemes or Investment Trust Companies; or

(e) in the case of an arrangement under which the Firm manages a portfolio which invests only in Investments agreed with the Customer at the outset and in proportions so agreed, the Customer making additional payments from time to time at his discretion (but this sub-paragraph (e) does not apply to the initial investments of any such portfolio); or

(f) in the case of a discretionary ISA or a discretionary PEP; [RN48]

but if Contract Notes are not so sent, any Periodic Statement sent to the Customer must contain the information which would have been contained in Contract Notes complying with Rule 4.4(1) and relating to the transactions effected during the relevant period.

4.4(3) Cases where Contract Notes may omit certain information

30.11.91

(a) A Firm shall not be required by Rule 4.4(1) to ensure that a Contract Note contains all of the essential details of a transaction if:

(i) anyone fails to supply the Firm with information which it requires for inclusion in a Contract Note; or

(ii) the transaction involves the conversion of one currency into another and that conversion has not been made.

In either case the Firm may then omit the relevant information but that fact shall be stated with an indication that it is to be supplied later. The relevant information shall then be stated in a supplementary Contract Note sent as soon as it is known by the Firm. If the information cannot be supplied at all, the Firm must state that fact.

(b) A Firm shall not be required by Rule 4.4(1) to ensure that a Contract Note contains a disclosure of any Material Interest or conflict of interest in, or relating to, a transaction if that Material Interest or conflict of interest has already been disclosed to the Customer under Rule 3.3(1) of this Chapter.

4.5 PERIODIC INFORMATION

4.5(1) Frequency and content of Periodic Statement

16.2.96; RN13

Subject to Rules 4.5(2) to (8), a Firm which acts as an Investment Manager for a Customer must ensure that he is sent at suitable intervals a report stating the value of the portfolio or account at the beginning and end of the period, its composition at the end, and, in the case of a discretionary portfolio or account, changes in its composition between those dates.

4.5(2) Cases where Periodic Statements are not required

1.7.95; RN13

If a Private Customer resident overseas or a Non-private Customer:

(a) has requested a Firm not to send him Periodic Statements or the Firm has reasonable
grounds for believing that he does not wish to receive them; or

Note:

Under Rule 1.6(2) of Chapter IV Firms are required to maintain records of transactions effected with or for a Customer and these must be available to him or his agent on request under Rule 1.6(4) of Chapter IV.

(b) has requested some different content of information in any Periodic Statement to be sent to him;

the Firm need not ensure that a Periodic Statement is sent to him or that it contains all of the information required by Rule 4.5(1) and Rules 4.5(3) to (7).

If a Customer requests a Firm to send out Periodic Statements containing information which differs significantly from that prescribed under Rule 4.5(1) and Rules 4.5(3) to (7), this should be disclosed to the Customer at the point of instruction or when the content requirements are subsequently agreed between the Firm and the Customer.

4.5(3) Periodic Statements: Managed Portfolios and other accounts

When reporting to a Customer, a Firm which acts as an Investment Manager, or administers for the Customer any other account or portfolio of investments which is not a Managed Portfolio, must send to the Customer or the Customer’s nominee (not being an Associate of the Firm) a Periodic Statement:

(a) at least once in every six months; or

(b) at least once in any other period not exceeding twelve months which has been agreed between the Firm and the Customer;

The period agreed under paragraph (b) of Rule 4.5(3) should be specified in any Customer Agreement between the Firm and the Customer.

and in the case of a Discretionary Managed Portfolio, within 25 business days or, if the Firm’s Permitted Business in relation to which the statement is supplied consists only of venture Capital Business, 50 business days, after the date as at which it is drawn up.

4.5(4) Discretionary Managed Portfolios: loaned or charged assets

If Investments comprised in a Discretionary Managed Portfolio have been lent to a third party, or if money is borrowed from a third party against the security of Investments, the Customer shall be sent at least once in every quarter year and not later than 25 business days after the end of the quarter to which it relates, a statement specifying, as the case may be:

(a) the Investments which have been lent to third parties at any time during the quarter and the gross income from such lending which has accrued during the quarter, or, where it is impracticable to specify such Investments and quantify such income, the fact that Investments comprised in the portfolio have been so lent; and

(b) the amounts borrowed and outstanding at any time during the quarter and the interest charged on those amounts during the quarter.

4.5(5) Required contents

Each Periodic Statement sent to a Customer must include:

(a) for Periodic Statements required under Rule 4.5(3), the information set out in Part I of Table 4.5(5);

(b) for portfolios which may include Open Positions in Derivatives, the information set out in Part II of Table 4.5(5).

4.5(6) Open Positions

(a) In relation to each portfolio which may include Open Positions in Derivatives, a Firm must also send to the Customer, within two weeks after the end of each relevant period, a statement as at the close of business on the last business day of that period which complies
with the requirements of paragraph (b) of Rule 4.5(5) unless during the relevant period there were no Uncovered Open Positions.

**Note:**

Examples of Uncovered Open Positions include:

(a) selling a call Option (that is, contracting to sell if called on to do so) on an Investment not held in the portfolio;

(b) forward sales of, and sales of call Options on, currency in amounts in excess of the portfolio’s holding of that currency as cash or in Readily Realisable Investments denominated in that currency;

(c) transactions having the effect of "selling" an index to an amount in excess of portfolio holdings of Investments included in that index;

(d) selling a put Option (that is, contracting to buy an Investment if required to do so) on an Investment unless cash or certificates of deposit, Treasury Bills or other near-cash Investments maturing before the exercise date of the Option are held (in the relevant currency) to the value of the put, would cover the position; and

(e) transactions having the effect of "buying" an index to an amount in excess of portfolio holdings, in the same currency of cash or Readily Realisable Investments not included in the index in question.

Examples of what are not Uncovered Open Positions include:

(a) commitments to buy or sell which are offset by equivalent opposite commitments (for example a forward sale of sterling offset by a forward purchase);

(b) the purchase of an Option the power to exercise which rests with the buyer;

(c) a forward sale of currency to an amount less than or equal to the portfolio holdings of that currency in cash or Readily Realisable Investments;

(d) a contract to "sell" a stock index, Option or Future at a value less than the portfolio holdings of the stocks included in that index;

(e) the sale of a call Option which may be exercised against the seller, if the subject of the Option is held in the portfolio.

(b) For the purposes of this Rule, the relevant period is:

(i) Mixed Portfolio a quarter year, unless the total contract value of Uncovered Open Positions at close of business on any day exceeds 20% of the total value of the portfolio in which event the next statement shall be prepared for the period commencing on the date as at which the previous statement was drawn up and ending on the last day of the calendar month in which that business day occurs; and

(ii) In all other cases a calendar month.

4.5(7) Periodic Reports: Broker Fund Advisers

(a) A Firm must ensure that a Customer who has an interest in a fund or Scheme in respect of which the Firm is a Broker Fund Adviser is provided with a periodic report:

A Firm may comply with Rule 4.5(7) if it has arrangements whereby an Associate, a Life Office or an Operator of a Regulated Collective Investments Scheme has agreed to provide a periodic report to the Customer in accordance with the requirements of this Rule.

(i) at least once in every six months;

(ii) within eight weeks of the date as at which the report is made up; and

(iii) containing the information required by Part I of Table 4.5(7).

(b) A Firm which is a Broker Fund Adviser in relation to a fund of a Life Office must ensure that a Customer who has a Life Policy linked to that fund is provided with an annual report, in accordance with the requirements of Part II of Table 4.5(7), not later than eight weeks after the date as at which the report is made up (the "reporting date"), which shall be annually in the same month each year, beginning with the first reporting date after a Customer’s cash contributions have been made.
A Firm which is a Broker Fund Adviser need not send a periodic report in accordance with paragraph (a) of Rule 4.5(7) where the fund is a Regulated Collective Investment Scheme, and the information required by paragraph (a)(iii) of Rule 4.5(7) is included in a corresponding statement given or sent to the investor by the Operator of that Scheme in accordance with regulations made under Section 81 of the Act or, in the case of a Recognised Scheme, under the corresponding provisions of the law under which that Scheme is regulated.

### Table 4.5(5) Periodic Information

<table>
<thead>
<tr>
<th>Part I</th>
<th>PERIODIC STATEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>Contents and value of portfolio the number of units of each asset in the portfolio on the date as at which the statement is made up (the “closing date”), the Periodic Value of the portfolio, the value of each of the assets at the closing date and the aggregate of their values at that date;</td>
</tr>
<tr>
<td>(2)</td>
<td>Basis of valuation a statement of the basis on which the value at the closing date of each asset has been arrived at and, if it is the case, a statement that the basis for valuing a specified asset has changed since the previous valuation;</td>
</tr>
<tr>
<td>(3)</td>
<td>Details of any assets loaned or charged (a) particulars of which assets (if any) were at the closing date the subject of a loan to a third party and which (if any) were at that date charged to secure borrowings made on behalf of the portfolio, such assets remaining part of the portfolio notwithstanding any transfer of title; and (b) the aggregate of any interest payments made or income received during the period of account in respect of loans or borrowings made during that period;</td>
</tr>
<tr>
<td>(4)</td>
<td>Income received (a) the aggregate income received on behalf of the Customer during the period of account in respect of all assets comprised in the portfolio, to include all manufactured dividends in respect of stock lent to a third party, unless statements of income received on behalf of the Customer under his Customer Agreement are issued more frequently than Rules 4.5(3), (4) and (6) require; and (b) in the case of an ISA Cash Deposit, the interest rates applied during the period of account, together with the dates of their application, or, in the case of a large number of applicable interest rates, a statement of the average interest rate applied during the period of account.</td>
</tr>
<tr>
<td>(5)</td>
<td>Transaction details (a) except in the case of a portfolio which aims to track the performance of an external index, particulars of each transaction effected by the Firm for the portfolio during the period of account; and (b) particulars of each payment to or from the Customer during the period;</td>
</tr>
<tr>
<td>(6)</td>
<td>Charges and remuneration if not previously advised in writing: (a) a statement of the aggregate Charges of the Firm and its Associates;</td>
</tr>
</tbody>
</table>
(b) a statement of any remuneration received by the Firm and/or its Associates from a third party in respect of the transactions entered into, or any other services provided, for the portfolio; and

(c) if a Firm has charged the Customer more for a transaction than it has been charged by a broker, a statement to this effect and of the aggregate amounts concerned;

excluding any annual charge made by the Operator of any Collective Investment Scheme who is an Associate of the Firm if the Periodic Statement is accompanied by, or the Firm has previously supplied to the Customer, a copy of the Operator’s most recent statement sent to the Scheme’s unit holders;

Note: If any of the above information has already been supplied to the Customer in a separate document or in Contract Notes, then a statement to that effect will suffice.

(7) Movement in value of portfolio

except in relation to Managed Portfolios managed for Non-private Customers, savings schemes in investment and unit trusts, ISAs and PEPs, a statement of the difference between the value of the portfolio at the closing date and its Periodic Value, having regard at least to the following:

(a) the aggregate of assets received from the Customer and added to the portfolio during the period of account;

(b) the aggregate of the value of assets transferred, or of amounts paid, to the Customer during the period of account;

(c) the aggregate income received on behalf of the Customer during the period of account in respect of all the assets comprised in the portfolio;

(d) the aggregate of interest payments (if any); and

(e) the aggregate of realised and unrealised profits or gains and losses attributable to the assets comprised in the portfolio during the period of account;

Note: The statement to be provided under paragraph (7) is not intended to be an indicator of the performance of the portfolio.

Note: Firms may wish to distinguish capital and income, and therefore may give more information than is included in the above items. The style of the statement is a matter for the Firm provided that at least the above information is provided. If it includes some measure of performance, however, the basis of the measurement should be stated.

(8) Change in composition of Discretionary Managed Portfolio

if the portfolio is a Discretionary Managed Portfolio, any change in its composition between the first day of the period of account in respect of which the relevant Periodic Statement is provided and the closing date of that period; and

(9) Benchmarks

where the Periodic Statement relates to an ISA intended to be managed in accordance with any CAT Standards, a statement of whether the relevant CAT Standards have been adhered to throughout the period of account. [RN48]
OPEN POSITIONS

(a) the name and address of the Firm;
(b) the Customer's designation and account number;
(c) each payment made and amount received by the Firm in respect of the account during the month;
(d) a statement, in relation to each transaction effected during the month to close out a Customer's position, of the resulting profit or loss to the Customer after deducting commission in respect of that transaction;
(e) a statement, in relation to each Open Position, of the amount of the unrealised profit or loss (before deducting any commission which would be payable on a closing out of that position) attributable to that position; and
(f) a statement of the aggregate of each of the following in the Customer's account:
   i. cash;
   ii. collateral;
   iii. unrealised profits attributable to Open Positions; and
   iv. unrealised losses attributable to Open Positions.

Table 4.5(7)
Periodic Reports issued by Broker Fund Advisers

PART I

Reports for each fund or Unit Trust Scheme in relation to which a Firm is a Broker Fund Adviser, which are required under paragraph (a) of Rule 4.5(7), must include, to the extent that the Firm can reasonably be expected to obtain it, the following information:

a. the price of units in the fund or Scheme as at the opening of the period to which the report relates and on the date as at which the report is made up ("the closing date");

b. where the value of a separate asset on either an offer or bid basis at the closing date is not less than 5% of the aggregate value of the assets of the fund or Scheme on that basis at the closing date, a description of that asset and a statement of that percentage;

c. a comparison over the reporting period, and over the period beginning with the date on which the fund or Scheme was created (but not before 1 January 1990) and ending with closing date, of the percentage change in the price of units in the fund or Scheme on an offer to offer basis with:

   i. the percentage change over the same period on an offer to offer basis:

      A. in the case of a fund which is dedicated to pension policies, in the prices of units in a fund of the Life Office which is dedicated to pension policies which are unit linked policies and which is designated by the Life Office as its own managed unit linked pension fund, or, where the Life Office in question has no such managed fund, the sector average of general managed pension funds;

      B. in the case of a fund which is not dedicated to pension policies, in the prices of units in a fund of the Life Office which is dedicated to unit linked policies which are not pension policies and which is designated by the Life Office as its own managed unit linked life fund, or, where the Life Office has no such managed fund, the sector average of general managed life funds; and

      C. in the case of a Unit Trust Scheme, the sector average of units
trusts appropriate to the objectives and strategy of that Scheme; and

ii. the percentage change over the same period in whatever index of prices or other indicator has been selected for the purpose and has been disclosed to the Customer;

d. a description of the investment objectives and strategies which at the closing date are being followed by the Firm in the management of the fund or Scheme;

e. description of any significant change which has taken place during the reporting period in the investment strategies followed by the Firm in the management of the fund or Scheme; and

f. the aggregate value of the benefits and rewards which the Firm has received during the reporting period by way of remuneration for its services in the management of the fund or Scheme.

PART II

Reports required under paragraph (b) of Rule 4.5(7) must contain, to the extent that the Firm can reasonably be expected to obtain it, the following information as at the reporting date:

a. the number of units in the fund allocated to the policyholder's Life Policy;

b. the bid and offer prices of those units; and

c. the realisable value of those units.

APPENDIX 4.4(1) CONTRACT NOTES

1.4.92; RS4

PART I

ESSENTIAL DETAILS

SECTION 1

A Contract Note will be treated as containing the essential details of a transaction in compliance with Rule 4.4(1) if:

(a) the Contract Note includes all of the information relevant to that transaction specified in Section 2 of this Part; or

(b) for any transaction in Derivatives, the Firm observes the SFA rules governing the details to be contained in confirmation notes for transactions in Derivatives; or

(c) the Firm has supplied to the Customer, or as he directed, such written information on the transaction as was agreed with him or was in accordance with the custom of the market in which the transaction was effected; or

(d) the Firm has sent the Customer a copy of any Contract Note which it has received from another firm in respect of the transaction effected for him, together with such other written information as, when read with that copy, includes all of the information relevant to that transaction specified in Section 2 of this Part.

SECTION 2

The information referred to in (a) and (d) above is as follows:

1. Content of Contract Notes for Investments other than Life Policies or units

Where the Contract Note is for an Investment other than units in a Regulated Collective Investment Scheme:

(a) the name and address of the Firm.;

(b) the Customer's name or other designation and account number;
(c) the date and, except where paragraph 3 below applies, either the time of the transaction or a statement that the time of the transaction will be supplied on request;

(d) if the Firm effected the transaction as principal, that fact;

(e) if the Firm effected the transaction (other than any foreign exchange element in it) with or through the agency of an Associate of the Firm, that fact and the nature of the association;

(f) if the Firm is being remunerated for acting as an agent for the counterparty to the transaction as well as for acting as agent for the Customer, that fact;

(g) unless paragraph (b) of Rule 4.4(3) applies, the existence of any other Material Interest of the Firm in the transaction or in the fact of its being effected and of any position which creates a conflict of duty on the part of the Firm in relation to the transaction;

(h) the description of the relevant Investment and its size;

(i) the nature of the transaction and the unit price of the Investment;

(j) where the total consideration is payable at the settlement date, the amount of consideration;

(k) if any dividend or capitalisation or other right has been declared but has not been paid, allotted or otherwise become effective in respect of the Investment, the fact, if it is the case, that the benefit of the right will not pass to the purchaser after the transaction;

(l) where the transaction relates to an Investment on which interest falls to be paid from time to time, that part of the price of the transaction which represents capital and that part of it which represents interest which has accrued but not yet been paid (save in the case of securities of which the quoted price comprehends both capital and interest components);

(m) where the transaction involves the conversion of one currency into another, the rate of exchange obtained in effecting that conversation;

(n) the remuneration of the Firm or of any Associate of the Firm in connection with the transaction distinguishing;

(i) the amount of any commission charged;

(ii) except where all commissions are of a fixed amount not related to the size of the transaction, the basis on which the commission has been determined; and

(iii) except where paragraph (o) applies, where the Firm or an Associate of the Firm acted as a principal in effecting the transaction with the Customer, the amount (if any) of the Firm’s or the Associate’s Mark-up or Mark-down;

(o) where the transaction relates to an Investment which is not a Readily Realisable Investment and the Firm acted as principal in effecting the transaction with the Customer and there is no calculable Mark-up or Mark-down, how the unit price of the transaction was arrived at;

(p) if the transaction relates to units in an Unregulated Collective Investment Scheme of which the Firm or an Associate is the Operator, the amount or percentage of the Operator’s initial charge is included in the price of those units;

(q) the amounts of any fees, taxes or duties, except where those amounts have been included in the Firm’s commission or Mark-up or Mark-down;

(r) where any part of the remuneration of the Firm or of any Associate attributable to the transaction or of the amount stated under paragraph (o) or (p) is passed on by the Firm to a third party other than an Associate as a reward for the introduction of the business to the Firm, the identity of the third party and the amounts passed on; and

(s) the settlement date.

2. Content of Contract Notes for units in Regulated Collective Investment Schemes

Where the Contract Note is for the issue or redemption, or for the sale or purchase of units in a Regulated Collective Investment Scheme:

(a) the name and address of the Firm;

(b) the Customer’s name or other designation and account number;

(c) the date and, except where paragraph 3 below applies, either the time of the transaction
or a statement that the time of the transaction will be supplied on request;

(d) where the Firm is not the Operator and the transaction was effected with the Customer by the Firm as principal, that fact;

(e) if the Firm effected the transaction (other than any foreign exchange element in it) with or through the agency of an Associate of the Firm, that fact and the nature of the association;

(f) the name of the Scheme and the type and number of units involved;

(g) the nature of the transaction and the price of the units;

(h) where the total consideration is payable at the settlement date, the amount of consideration;

(i) where the transaction involves the conversion of one currency into another, the rate of exchange obtained in effecting that conversion;

(j) the amount of:

(i) the preliminary charge levied on any purchase expressed as a fixed sum or percentage; and

(ii) any charge (other than the initial charge) made by the Firm to the Customer in respect of the transaction and, except where all such charges to the Customer are made on the same basis, the basis on which the amount of the charge was determined;

(k) the amounts of any fees, taxes or duties, except where those amounts have been included in the Firm's charges stated in accordance with sub-paragraph (j) above;

(l) where the Firm is not the Operator of the Scheme or a Marketing Group Associate of the Operator and any commission is or will be payable in connection with the transaction to or at the direction of the Firm or an Associate, the matters which the Firm is required to disclose to the Customer by Rules 6.4(1) and (2) of this Chapter;

(m) where the Firm is, or is a Marketing Group Associate of, the Operator of the Scheme and any commission is or will be payable by or on behalf of the Firm or an Associate of the Firm in connection with the transaction to any person, the matters which the Firm is required to disclose in a written statement given or sent to the Customer in accordance with Rules 6.4(1) and (2) of this Chapter;

(n) the settlement date; and

(o) a statement that the price at which the transaction has been effected is on a historic or forward price basis, as the case may be.

3. Contract Notes: Series of Transactions treated as one

Where a Series of Transactions is treated as one transaction under Rules 3.9(4) to (6) the Contract Note need not state the time of the transaction or that a statement of it is available upon request but must state the price determined in accordance with Rule 3.10(2).

PART II

DUE DESPATCH

A Firm will be treated as having ensured that its Customer is sent a Contract Note with due despatch in compliance with Rule 4.4(1) if:

(a) Issue or redemption of units in a Regulated Collective Investment Scheme where the transaction is effected before the price is determined, unless paragraph (v) below applies, a Contract Note is sent at the latest on the business day following the day on which are established the number of units in which the transaction is effected and the relevant cancellation and creation prices by reference to which the issue or redemption price is determined;

(b) For all other transactions unless paragraph (v) below applies, a Contract Note is sent at the latest on the business day next following the day on which the transaction was effected or at such other intervals as the Customer may on his own initiative request. For this purpose, a transaction effected after the close of business on any day shall be treated as having been effected on the following business day.

For the purposes of (a) and (b) above:

(i) where a Series of Transactions is treated as one transaction under Rule 3.9(4), the end of the relevant period of 24 hours shall be treated as the time as at which the transaction
was effected;

(ii) where a Series of Transactions for a PEP is treated as one transaction under Rule 3.9(5), the end of the relevant period of three days shall be treated as the time at which the transaction was effected;

(iii) where a Series of Transactions in Investments in Companies incorporated outside the UK is treated as one transaction under Rule 3.9(6), the end of the relevant period of seven days shall be treated as the time at which the transaction was effected;

(iv) where any other transaction is allocated to a Customer in accordance with Rule 3.9(1), the transaction shall be treated as having been effected on the day on which the allocation is made; and

(v) when a Firm has, on behalf of a Customer, instructed another firm to enter into a transaction, a Firm will be treated as having ensured that its Customer is sent a Contract Note with due despatch in compliance with Rule 4.4(1) if it sends a copy of any Contract Note delivered to it in respect of the transaction to the Customer on the business day next following the day on which it is received by the Firm and that copy, together with any document attached to it, complies with the requirements of Rule 4.4(1).

Note:
A Firm is not absolved from the obligation to ensure that a Contract Note is sent with due despatch to its Customer even though information on the transaction is required from a third party, for example an overseas broker. If a Firm wishes to be treated as having sent out a Contract Note with due despatch, subject to paragraph (v) above, it must still issue a Contract Note but Rule 4.4(3) relaxes the requirements for the information to be contained in that Contract Note.

SECTION 5 Safekeeping of Customers' Assets

5.1 SAFEGUARDING AND ADMINISTRATION OF CUSTOMERS' ASSETS

5.1(1) Application of the Rules in this section

1.6.98; RN46

(a) Subject to paragraph (b), the Rules in this section apply to a Firm which is the Custodian of a Customer's assets and, where indicated, to a Firm which recommends, or employs the services of another person to be the Custodian of a Customer's assets, in the course of, or in connection with:

(i) Regulated Business; or

(ii) ISD Investment Services carried on in a Host State (unless the Firm obtains permission in writing from IMRO to treat such assets in accordance with the relevant requirements of that Host State).

Note: Firms are reminded that the provision of Investment Services to which the Rules in this section relate must be set out in a Customer Agreement with the Customer, in accordance with Rules 2.2(2), 2.3(2), 2.4(1) and (2) of this Chapter. In determining whether an agreement contains adequate detail on the custody services to be provided, a Firm should have regard to the provisions of Appendices 2.4(1)(a) and (b), and 2.4(2)(a) and (b).

(b) The Rules in this section do not apply to a Firm which is the Operator of a Regulated Collective Investment Scheme, in relation to activities carried on for the purposes of, or in connection with, the operation of the Scheme.

(c) Rule 5.1(8) applies to a Firm which is responsible for arranging the lending of Customer Investments. [RN 46]

5.1(2) Title to Customer Investments

2.2.98; RN37

A Firm must ensure that evidence of title to Customer Investments is maintained in such a way that:

(a) those Investments are separately identifiable from Investments belonging to the Firm or an Associate of the Firm, whether title to Customer Investments is registrable or passes by delivery; and

(b) where those Investments are registrable, they are properly registered in the Customer’s name or in the name of an Eligible Nominee or, with the consent of the Customer, in the name
of an Eligible Custodian.

For the purposes of paragraph (b), Customer Investments would not be properly registered if they were registered in the same name as that used for Investments belonging to the Firm or an Eligible Custodian, or to an Associate of either, unless they were held in an account designated separately from that used for Investments belonging to the Firm.

5.1(3) Security of Customer Investments

(a) A Firm must not release Customer Investments into the possession or control of a third party unless it has proper authority from the Customer to do so.

2.2.98; RN37

A Firm will not be acting on proper authority unless it can show that it has express written instructions from the Customer or the Customer's appointed agent (which maybe given generally or in any particular case), or that it is acting in accordance with the terms of its Customer Agreement with the Customer. A Firm would not be acting on proper authority if it used Customer Investments for the purposes of an Own Account Transaction, or if it used Customer Investments belonging to one Customer to meet the obligations of another Customer, unless in either case the Customer had given his clear and express consent.

(b) A Firm must have security arrangements, including appropriate systems and controls, which are adequate to safeguard Customer Investments.

A Firm's physical security arrangements should be appropriate to the value, and the risk of loss, of Customer Investments.

5.1(4) Responsibility for a Firm's Own Nominee

2.2.98; RN37

Where a Firm registers Customer Investments in the name of an Own Nominee, the Firm must accept responsibility for the acts or omissions of that nominee.

Note: Under Rule 2.5(1), a Firm must not, in any written agreement or communication with a Customer, seek to exclude or restrict any duty or liability to him which the Firm has under the Act, the Rules or any other requirement of the regulatory system.

5.1(5) Employment of third parties

(a) A Firm must not employ, or recommend a Customer to employ, the services of another person to safeguard and administer Customer Investments unless:

2.2.98; RN37

(i) subject to paragraph (b), that person is an Eligible Custodian;

(ii) the Firm is satisfied that the person is suitable to provide the safeguarding and administration services required; and

A Firm should perform sufficient due diligence checks in order to satisfy itself that the custodian is, and remains, a suitable person to provide the services required. These checks should be appropriate to the custodian and the market concerned, and should have regard to current industry standards (for example, FRAG 21 reports).

(iii) where the Firm employs the services of that person, the services are provided under a written agreement which sets out in adequate detail the respective responsibilities of the Firm and the Eligible Custodian.

The written agreement required by paragraph (a)(iii) should include, where relevant, those matters set out in paragraph (13)(b) of Appendix 2.4(1)(a) . The written agreement should also provide that, in relation to the Customer Investments placed in his custody, the Eligible Custodian:

(a) will not release any Customer Investments into the possession or control of a third party except on the instructions of the Firm or of the Customer to whom they belong;

(b) will hold Customer Investments in such a way that it is readily apparent that they do not belong to him, or to the Firm, or to an Associate of either;

(c) will provide at the Firm's request a statement of the Customer Investments held by him or
to his order;

(d) will not have or claim any lien or right of retention over, or any right to sell, any Customer Investments, except in relation to any unpaid sum due to him in connection with services rendered the provision of which has been authorised by the Firm or the Customer to whom the Investments belongs;

(e) will maintain records of Customer Investments which meet the requirements of Rule 5.1(6).

(b) Paragraph (a)(i) does not apply where it is not possible to opinion to appoint an Eligible Custodian, provided that the Firm informs the Customer of this fact and of the risks involved. Where a Customer instructs a Firm to employ a person who is not an Eligible Custodian, the Firm should warn the Customer of the risks involved and should make a written record of the instructions received from the Customer.

5.1(6) Record keeping

2.2.98; RN37

A Firm must ensure that proper records are kept of Customer Investment which the Firm has in its custody, or which are held in custody by another person for, or to the order of, the Firm. These records should at least show, for each Customer Investment, its nature, amount and nominal value, and the legal or, where known, the beneficial owner; the extent to which it is subject to any charge of which the Firm has been notified; and the date on which it came into or left the custody of the Firm and, where it has left the custody of the Firm, the identity of the person to whom title has passed. These records should also distinguish between Customer Investments which belong to a Customer and Investment or other property held as collateral.

5.1(7) Reconciliation

2.2.98; RN37

(a) A Firm which is the Custodian, or which appoints another person to be the Custodian; of Customer Investments, must perform a Reconciliation as often as is necessary to ensure the accuracy of its records relating to each Customer’s entitlement to Customer Investments, and at least twice in every calendar year.

A Firm may comply with the requirements of paragraph (a) either by reconciling all Customer Investments as at two given dates (being not more than 8 nor less than 4 calendar months apart, both within the year and between subsequently years), or by reconciling each Customer Investment, by reference to the issuer of that Investment, on a rolling stock count basis within the same timeframe.

Where a Firm employs the services of a third party, in accordance with the requirements of Rule 5.1(5), the Firm may comply with the requirements of paragraph (a) by obtaining a statement of Customer Investments held by the third party and reconciling it with the Firm’s own records in respect of each Customer.

(b) A Firm must perform the Reconciliation required by paragraph (a) as soon as practicable after the date to which the Reconciliation relates.

IMRO would normally expect a Reconciliation to be performed within 25 business days of the date to which the Reconciliation relates.

(c) Where, having undertaken the Reconciliation required by paragraph (a), a differences arises which the Firm is unable to explain, the Firm must correct it, or procure its correction, as soon as possible.

Correcting, or procuring the correction of, any difference may involve the Firm making good any shortfall for which the Firm is directly responsible.

(d) A Firm must notify IMRO promptly in writing, together with appropriate details, if it has not performed the Reconciliation required by paragraph (a), or if, having performed the Reconciliation, it is unable to correct any differences.

(e) A Firm must notify IMRO if it intends to change the basis on which it performs Reconciliations from two fixed dates a year to a rolling stock count basis, or vice versa.

A Firm should be able to show that is has systems and controls which are adequate to enable it to perform Reconciliations on a rolling stock count basis. A Firm should require its auditor, when completing the annual audit report required by Rule 6.1(11) of Chapter V, to report on the adequacy of the Firm’s systems and controls to enable it to perform Reconciliations on this basis.
5.1(8) Loans of Customer Investments

1.6.98; RN46

A Firm must not lend, or permit the lending of, Customer Investments to a third party unless;

Note: This Rule applies to the Firm which is responsible for arranging stocklending transactions. This would include, for example, an Investment Manager who passes stocklending instructions to a Custodian. [RN 46]

(a) the Customer to whom the Investments belong has consented, and the loan is subject to appropriate terms and conditions;

[Guidance]

Where Customer Investments belonging to more than one Customer are registered or otherwise held collectively in the same name or account, a Firm should have arrangements in place which are adequate to ensure that Investments belonging to Customers who have not consented to stocklending are not lent. The arrangements should include the separation of custodial and stocklending activities, and the maintenance of separate records for each. However, where Customer Investments are placed by a Firm in a custody and settlement system, under the terms of which the custodian or depository which operates it may effect stocklending transactions on a discretionary basis, compliance with Rule 5.1(8)(a) will require the Firm to segregate Customer Investments which may be lent from those which may not through the use of separate registration names or accounts. [RN 46]

The Customer may give his consent in his Customer Agreement with the Firm. The terms and conditions should have regard to the requirements of the markets in which the lending takes place (including, for example, the Stock Lending and Repo Committee's Code of Practice and the Gilt Repo Code of best Practice).

Note: Guidance on the content of Customer Agreements is set out in paragraph (13) of Appendix 2.4(1)(a).

(b) adequate collateral is obtained and maintained for the duration of the loan, in accordance with any instructions given by the Customer; and

The collateral obtained should be appropriate to the loan in question, and the requirements of the markets in which the lending takes place. Firms should consider the need to require pre-collateralisation or collateralisation on a delivery versus payment basis. IMRO would expect the value of any collateral to be maintained at levels appropriate to the circumstances of the loan, taking into account the market risks associated with the transaction and the creditworthiness of the counterparty. The value of the Customer Investments lent and collateral obtained should be marked-to-market on daily basis. [RN 46]

(c) the Firm arranges for all income, inclusive of manufactured dividends, fees or commissions, earned thereby (other than any Charges payable to the Firm for arranging the loan) either to be paid to the Customer direct or to be received by the Firm on his account and treated as Client Money in accordance with the Client Money Regulations, unless the Customer otherwise directs.

5.1(9) Reporting to Customers

2.2.98; RN37

A Firm must send to the Customer at suitable intervals a statement showing the Investments belonging to him which the Firm has in its custody, or which are held in custody by another person for, or to the order of, the Firm, within 25 business days of the date as at which the statement is made up.

The Firm should send a statement at least once every six months unless a longer period—negotiated or agreed with the Customer. The reporting frequency should be set out in the Customer Agreement. A Firm need not send a six monthly statement if one was sent in the previous six months and nothing has changed.

A Firm may comply with this Rule by including the information required by it in any Periodic Statement provided by the Firm to the Customer in accordance with Rules 4.5(1) to (8) of this Chapter. Any such statement should clearly identify those Customers Investments for which the Firm is accountable as at the date the statement is made up, whether or not the Investments are in the custody of the Firm; and should clearly identify Customer Investments which have been lent to a third party.

5.2 DUTY TO OBEY CLIENT MONEY REGULATIONS

5.2(1) Application of the Client Money Regulations
Where a Firm holds Clients Money, it must comply with the Client Money Regulations, except to the extent that they are disapplyed, modified or replaced by Rules 5.2(2) to (4), and any breach by a Firm of any of those regulations shall be treated as a breach of the Rules.

**Note:** The following parts of the Financial Services (Client Money Regulations 1991 remain designated, and continue to have direct statutory effect on Firms by virtue of Sections 55 and 63A of the Act:

(a) all the regulations in Part 3;
(b) regulations 4.01 and 4.02; and
(c) regulation 5.04 (to the extent that expressions defined therein are used in any regulations falling within paragraphs (a) or (b) above).

**Note:** Record-keeping, accounting, reconciliation and audit requirements are set out in Part 4 of the Financial Services (Client Money) Regulations 1991.

### 5.2(2) Disapplication of the Client Money Regulations

(a) Rule 5.2(1) does not apply to a Firm which is:

(i) an Exempted Person in respect of exempted business; or

(ii) an Approved Bank in so far as it holds money on behalf of a Customer in an account with itself; or

(iii) a Trustee Firm in respect of Trustee Activity.

(b) Regulations 2.02.2 (Money from certain private customers) and 2.02.3 (Money from non-authorised persons who are non-private customers) of the Financial Services (Client Money) Regulations 1991 do not apply for the purposes of Rule 5.2(1).

**Note:** These regulations are replaced by Rule 5.2(4).

**Note:** Rules 5.2(1) to (5) do not apply to a European Firm when carrying on Home Regulated Investment Business by virtue of Rule 12.1(1) and Table 12.1(1) of this Chapter. However, Rules 5.2(1) to (5) do apply to a European Firm in respect of Investment Business carried on by it in the UK which is not Home Regulated Investment Business. [RN48]

### 5.2(3) Application of the Client Money Regulations to ISD Firms

Rule 5.2(1) applies to an ISD Firm in respect of Client Money held or received by it in the course of carrying on ISD Investment Services in a Host State, unless the Firm obtains permission in writing from IMRO to treat such money in accordance with the relevant requirements of that Host State.

### 5.2(4) Money belonging to Non-private Customers

(a) Subject to paragraphs (b) and (c), money is not Client Money for the purposes of Rule 5.2(1) if a Firm holds it on behalf of or receives it from a Non-private Customer who is not an Authorised Person and the Customer has signed a statement agreeing that:

(i) his money will not be subject to the protections conferred by the Client Money Regulations;

(ii) as a consequence, his money will not be segregated from the money of the Firm and will be used by it in the course of its business; and

(iii) if the Firm becomes insolvent, he will rank as a general, unsecured creditor of the Firm.

(b) Paragraph (a) does not apply to money which, prior to 31 December 1995, a Firm has not treated as Client Money in accordance with Regulations 2.02.2; 2.03.3 or 2.02.5 of the Financial Services (Client Money) Regulations 1991, provided that the Firm:

(i) has also sent a notice to the Customer containing the statements set out in paragraph (a) above, and

has offered to treat that customer’s money as Client Money and the Customer has not accepted
that offer; or
(ii) has entered into a Customer Agreement with a Customer in accordance with Regulations 2.02.2 or 2.02.5 prior to 31 December 1995.

(c) Paragraph (a) does not apply to a firm which is an individual or a partnership.

5.2(5) Money relating to ISAs

A Firm which is not an Approved Bank may not act as the ISA manager of an ISA Cash Deposit unless:

(a) its Permitted Business includes permission to hold Client Money; or

(b) it has in place contractual provisions whereby it receives Customers' money as agent for an Approved Bank such that any loss suffered by a Customer in relation to an ISA Cash Deposit will be compensated for by that Approved Bank or relevant consumer compensation scheme.

SECTION 6 Advising on Packaged Products

6.1 POLARISATION

6.1(1) Polarisation status

(a) A Firm which advises a Private Customer on Packaged Products must either:

(i) be a Product Company or its Marketing Group Associate; or

(ii) do so as an Independent Intermediary.

(b) Unless a Firm is acting as an Investment Manager, it must take reasonable steps to ensure that a Private Customer it advises to buy a Packaged Product is also given adequate information about the Firm's polarisation status, the buying process and any limits on the Packaged Products on which it can advise.

When complying with the requirements of paragraph (b) of Rule 6.1(1), a Firm should observe the appropriate standards for disclosure of its polarisation status set out in Appendix 6.1(1)(b).

6.1(2) Duty of Tied Firm

(a) Subject to paragraph (b), a Firm which is a Product Company or its Marketing Group Associate must not advise Private Customers to buy Packaged Products which are not those of the Marketing Group.

(b) Where a Firm acts as an Investment Manager for a Customer, paragraph (a) does not preclude the Firm from advising the Customer on any Packaged Product.

6.1(3) Tied Firm acting as Investment Manager

Where a Firm which is a Tied Firm is acting as an Investment Manager for a Private Customer and the Customer's portfolio may include Packaged Products, the Firm must inform its Customer in advance whether it will act for him on the basis that it may recommend or acquire:

A Firm give a Customer the information required by rule 6.1(3) in its Customer Agreement with him.

(a) a Packaged Product which is only available from the product range of the Marketing Group to which the Firm belongs; or

(b) any Packaged Product;

and must comply with the relevant provisions of Rule 6.3(1).

6.1(4) Duty of Independent Intermediaries

(a) a Packaged Product which is only available from the product range of the Marketing Group to which the Firm belongs; or

(b) any Packaged Product;
A Firm which acts as an Independent Intermediary in advising a Private Customer on Packaged Products must act as an Independent Intermediary whenever it advises Private Customers on Packaged Products in the course of Regulated Business.

**Note**

Further information is required to be disclosed by Rule 4.2 of this Chapter.

### 6.2 INFORMATION ABOUT PACKAGED PRODUCTS

#### 6.2(1) General duty of disclosure

4.11.96; RN32

Before or when making a personal recommendation to a Private Customer to buy a Packaged Product, a Firm must give him information about the product which is adequate to enable him to make an informed investment decision.

Adequate information for the purposes of this Rule should include an explanation of applicable cancellation rights.

**Note:**

The Transitional Provisions relating to this Rule ceased to have effect in respect of Life Policies from 1 January 1995 and in respect of other Packaged Products from 1 May 1997.

Where a Firm, acting as a Broker Fund Adviser, recommends units in a Regulated Collective Investment Scheme or a Life Policy to a Private Customer, IMRO recommends that the information required by Rule 6.2(1) should include a written statement identifying:

(a) the investment objectives of the Scheme or the fund linked to the Life Policy, and the policies and strategies which the Firm intends to follow to achieve those objectives;

(b) any Associate who may provide advice in connection with the management of the Scheme or fund;

(c) any published index or sector average which is appropriate to the investment objectives and strategy of the Scheme or fund, with which comparison of the performance of the Scheme or fund may fairly be made.

#### 6.2(2) Provision of Key Features

4.11.96; RN32

(a) Subject to paragraphs (b) and (c), a Firm must provide a Private Customer with written Key Features in accordance with Rule 6.2(3):

When a Private Customer purchases a Packaged Product through a savings plan, Key Features need only be given prior to the Customer’s first payment under the plan, and not before each and every subsequent payment.

(i) before or when recommending the Customer to consider the purchase of a Packaged Products; or

(ii) before it effects or arranges a transaction in a Packaged Product for the Customer.

**Note:**

Where the Packaged Product is a Regulated Collective Investment Scheme, Firms are reminded of the obligations imposed by the Regulated Schemes Regulations and the Open ended Investment Companies Regulations to disclose, or make available, to investors other information about the scheme.

**Note:**

Firms are also reminded of the requirements (set out in rule 4.4 of this Chapter) to provide a contract note after certain transactions have been completed.

(b) Where the recommendation or transaction relates to a Packaged Product which is not a Life Policy, paragraph (a) does not apply if:

(i) the Customer buys the Packaged Product either as an Execution-only Customer or in response to a Direct Offer Advertisement; or

(ii) the Firm buys the Packaged Product as a Discretionary Portfolio Manager; or

(iii) the Firm buys the Packaged Product as an Investment Manager (but not as a Discretionary
Portfolio Manager), provide that the Customer has agreement with the Firm that Key Features need not be provided; or

(iv) the Customer buys the Packaged Product following a recommendation by the Firm (other than on a face to face basis), provided that the Firm gives an explanation of the product to the Customer; records why no written Key Features were supplied pre-sale; and sends the Key Features to the Customer after the transaction has been effected no later than the despatch of the Contract Note; or

When providing the information required by paragraph (b)(iv) of Rule 6.2(2), a Firm should explain the name of the Product, its aims, relevant risk factors, charges which will or may be borne by the Customer or which will or may affect the value of the Investment concerned, and their effect; any commission payable to the Firm or to an Associate of the Firm, and that the Customer is entitled to receive further information about that commission.

(v) the Customer is changing from accumulation to income classes of the same Investment, or vice versa, and has already been provided with written Key Features relevant to the new class of Investment;

When advising a Private Customer to take withdrawals of income from the accumulated fund of the Customer’s Personal Pension Scheme, a Firm should provide the Customer with client-specific Key Features appropriate to that arrangement.

provided always that written Key Features are provided to the Customer on request.

(c) Where the terms of a Packaged Product are varied after written Key Features have been provided to a Private Customer under paragraph (a) or (b), further written Key Features must be provided to the Customer if the variation affects the information already provided and might reasonably be regarded as material.

A revised Key Features document will not generally be required in circumstances where the variation is concerned only with the amount of premium to be paid and the commission or Commission Equivalent attributable to the transaction either would not increase by more than 10% or would be reduced.

6.2(3) Key Features: contents requirements

A Firm must ensure that the written Key Features required under Rule 6.2(2) include the information required by, and are set out in a document produced in accordance with:

a. in the case of a Life Policy, the PIA rules; or
b. in the case of a Packaged Product other than a Life Policy, either the appropriate part of Table 6.2(3)(b) or the PIA rules;

c. in the case of an Individual Pension Account, the information described in Note 1 to paragraph (5) of Table 6.2(3) (b).

Key Features under paragraph (b) of Rule 6.2(3) should follow the minimum requirements set out in Part II of Table 6.2(3)(b) in the case of an ISA Cash Deposit; otherwise the requirements in Part I of Table 6.2(3)(b) should be followed. [RN48]

Where a Firm has reasonable grounds for believing that the Product Company which produces the Packaged Product concerned will supply a Key Features document in accordance with the PIA rules or with Table 6.2(3)(b), as appropriate, the Key Features required by Rule 6.2(3) may be those provided by the Product Company.

The Key Features document may either be a separate document, or may be included, with appropriate prominence, in a product brochure or other document. It may also be provided by electronic means. It should be prepared to a standard equivalent to any other documentation used in the sales process. It may also cover a range of funds, with some parts common to all funds and other parts applicable to specific funds.

When advising a Private Customer to take withdrawals of income from the accumulated fund of the Customer’s Personal Pension Scheme, a Firm may comply with this Rule by providing a Key Features document produced by the relevant Life Office in accordance with the PIA rules.

Note: Rules 5.7 to 5.10 and Schedule 6 of the LAUTRO rules, which are adopted in the PIA rules, govern the form and content of Key Features documents, including those to be issued in relation to pension fund withdrawals. The obligation on a Life Office to issue an annual review Key Features document to an investor is set out in LAUTRO rule 3.15A.

Note: Rule 1.3(1) requires Direct Offer Advertisements to contain Key Features information.

Note: The transitional provisions relating to Rule 6.2(3) (Product Particulars: contents requirements) ceased to have effect in respect of Life Policies from 1 January 1995 and in
6.2(4) Projections

A Firm must not issue, and must take reasonable steps to ensure that any Appointed Representative does not issue, any projection, illustration or forecast relating to any amount receivable by a Private Customer in connection with an investment in a Packaged Product unless:

(a) in relation to a Life Policy, the Firm complies with the requirements of the PIA rules applicable to such projections, illustrations or forecasts as if those rules applied to the Firm; or

LAUTRO rules 5.4 to 5.6, which are adopted in the PIA rules, govern the preparation of projections in relation to Life Policies.

(b) in relation to a Packaged Product which is not a Life Policy, the projection, forecast or illustration complies with the requirements of paragraphs 3 and 4 of Table 6.2(3)(b) and is either:

(i) included in the Key Features information produced in accordance with paragraph (b) of Rule 6.2(3); or

(ii) is otherwise given to the Customer in writing, and is accompanied by information appropriate to the product relating to charges and commission as required by paragraphs 8, 9 and 10 of Table 6.2(3)(b); or

(c) the projection, forecast or illustration is issued with a view to calculating a maximum contribution allowed by the Inland Revenue (in which case any assumptions used in calculating that contribution must be disclosed).

Note: The Transitional Provisions relating to Rule 6.2(4) (Forecasts and illustrations) ceased to have effect in respect of Life Policies from 1 January 1995 and in respect of other Packaged Products from 1 May 1997.

6.2(5) Broker Fund Advisers: publication of prices

A Firm which is a Broker Fund Adviser must ensure that the prices of each of the funds in respect of which it acts as a Broker Fund Adviser are published regularly in a manner acceptable to IMRO.

A Firm may comply with Rule 6.2(5) by publishing prices of funds under management on Extel.

6.2(6) Broker Fund Advisers: disclosure of transfer arrangements

A Firm which is a Broker Fund Adviser in relation to a Regulated Collective Investment Scheme or a fund of a Life Office must disclose to a Private Customer who has an interest in the Scheme or fund:

(a) full particulars of any change in the identity of the person responsible for the management of the Scheme or fund, including any benefit or reward payable to the Firm or its Associate in connection with that change expressed as a percentage of the value of the Scheme or fund immediately before the change took place; and

(b) any change in the information about the Scheme or fund disclosed to the Customer in accordance with Rule 6.2(1).

6.2(7) Territoriality: Application of product and commission disclosure regime for Life Policies

Rules 6.2(2), 6.2(3), 6.3(5), 6.3(6)(a), 6.4(1), and 6.4(2) (to the extent that these Rules apply in respect of a Life Policy) apply whenever the Habitual Residence of the Private Customer is:

(a) in the UK when the proposal form is signed; or
6.3 STANDARDS OF ADVICE ON PACKAGED PRODUCTS

6.3(1) Duty of Tied Firm

31.1.99; RN48

(a) A Firm which advises Private Customers to buy Packaged Products must take reasonable steps to inform itself and relevant agents, where the Firm is a Product Company or its Marketing Group Associate, about Packaged Products available from the Marketing Group.

(b) Where a Firm is a Product Company or its Marketing Group Associate, it must not advise a Private Customer to buy a Packaged Product, or buy a Packaged Product for him in the exercise of discretion, if it is aware of a Packaged Product of the Marketing Group which would better meet his needs.

Where a Firm is acting as Investment Manager, and has informed the Customer under paragraph (a) of Rule 6.1(3) that it may only recommend or acquire Packaged Products of the Firm’s Marketing Group, the Firm should follow the standard of advice in paragraph (b) rather than paragraph (c) of Rule 6.3(1).

(c) Where a Firm is a Product Company or its Marketing Group Associate and is acting as an Investment Manager, it must not advise a Private Customer to buy a Packaged Product of a Product Company outside the Marketing Group, or buy such a product for him in the exercise of discretion, if it is, or reasonably should be, aware of a generally available Packaged Product which would better meet his needs.

Where a Firm is acting as Investment Manager and has informed the Customer under paragraph (b) of Rule 6.1(3) that it may recommend or acquire any Packaged Product, the Firm should follow the standard of advice in paragraph (c) rather than paragraph (b) of Rule 6.3(1), as if the reference to “generally available Packaged Products” included those of the Firm’s Marketing Group.

(d) In assessing the merits of a Packaged Product to be held as the Plan Investment of an ISA or a Personal Equity Plan, a Firm must take into account the characteristics (including charging arrangements) of the plan, as well as those of the product. [RN48]

6.3(2) Duty of Independent Intermediary

31.1.99; RN48

(a) A Firm which advises Private Customers to buy Packaged products must take reasonable steps to inform itself and relevant agents, where the Firm is an Independent Intermediary, about Packaged Products which are generally available on the market and on which it can advise.

Note: Rule 4.2 requires that adequate information concerning Firms and those acting on their behalf be given to Private Customers to whom they provide Investment Services.

(b) Where a Firm is acting as an Independent Intermediary, it must not advise a Private Customer to buy a Packaged Product, or buy a Packaged Product for him in the exercise of discretion, if it is aware of a generally available Packaged Product which would better meet his needs.

(c) Where a Firm is acting for a Private Customer as an Independent Intermediary but not as an Investment Manager, it must not advise him to buy a Packaged Product from its Extended Group if it is aware of a generally available Packaged Product which is not a product of the Extended Group and which would meet his needs as well as the Extended Group product.

(d) In assessing the merits of a Packaged Product to be held as the Plan Investment of an ISA or a Personal Equity Plan, a Firm must take into account the characteristics (including charging arrangements) of the plan, as well as those of the product. [RN48]

6.3(3) Records to be kept

5.2.94; RS8

(a) Where a Firm advises a Private Customer to buy a Packaged Product or buys one for him in the exercise of discretion, it must record the results of its enquiries about Packaged Products which led it to give such advice or make such purchase having regard to the requirements of Rule 6.3(1) or (2); and
the results of those enquiries must be recorded as soon as they are obtained and be kept for at least three years except in the case of records which are or may be relevant to the recommendation or sale of transfers or opt-outs from Occupational Pension Schemes, and transactions involving Appropriate Personal Pension Policies or Contracts, effected since 29 April 1988, in which case such records must be kept indefinitely.

6.3(4) Broker Fund Advisers: Life Policies issued by overseas Life Offices

30.11.91

A Firm must not recommend to a Private Customer a Life Policy issued by a Life Office which is authorised to effect or carry out Life Policies in any country or territory designated for the purposes of Section 130 of the Act by an order made by the Secretary of State unless:

(a) the Firm has no reason to believe that any condition imposed by that order has not been satisfied; and

(b) where the Firm or its Associate acts as a Broker Fund Adviser in relation to that Life Policy, the terms of that Life Policy provide that the Life Office is responsible for the acts or omissions of the Firm or its Associate in that capacity as if they were the acts or omissions of the Life Office.

6.3(5) Differential pricing

4.11.96; RN32

Rules 6.3(1) and (2) do not preclude a Firm from advising a Private Customer to buy a Packaged Product or from buying a Packaged Product for him in the exercise of its discretion where it is or reasonably should be aware that a Packaged Product of the kind in question is available from another company, branch or individual in the Product Company’s Marketing Group at a lower price.

6.3(6) Reasons for recommendations

1.7.96; RN28

(a) Where a Private Customer buys, sells or surrenders a Life Policy (other than a single premium Life Policy) or enters into a Pension Transfer as a result of a recommendation given by a Firm, the Firm must advise the Customer in writing of the reasons why the Firm believes the transaction to be suitable for the Customer. The explanation must be sent not later than the cancellation notice given pursuant to the Cancellation Rules. Where no such cancellation notice is required, the explanation must be sent before or as soon as possible after the transaction is effected.

Firms should note that the obligations imposed by this Rule apply to a Firm’s advice to a Private Customer to take withdrawals of income from the accumulated fund of the Customer’s Personal Pension Scheme.

(b) Where a Firm recommends that a Customer should not enter into a transaction which involves a Pension Transfer but the Customer wishes to proceed with such a transaction, then the Firm may only effect the transaction if it has advised the Customer in writing of the reasons why the Firm believes the transaction not to be suitable for the Customer.

Guidance on the application of this Rule can be found in Appendix 6.3(6).

Note:

Rule 1.6(2) of Chapter IV also requires a Firm to keep records of the letters sent to Customers pursuant to this Rule.

6.4 INDEPENDENT INTERMEDIARY’S REMUNERATION

6.4(1) Remuneration receivable by Firms

31.10.97; RN43

(a) Subject to paragraph (b), before a Firm arranges or effects a transaction relating to a Packaged Product with or for a Private Customer, the Firm must provide the Customer with a written statement of any commission or Commission Equivalent receivable by the Firm or an Associate in relation to the transaction, setting out the amount or value in cash terms and the terms on which it will be paid.

Commission or Commission Equivalent is to be regarded as receivable in connection with a
transaction even where it is payable in respect of another transaction if the two transactions are connected in any way by any form of agreement, arrangement or understanding. The terms on which commission or Commission Equivalent is paid should indicate when commission is paid, distinguished where relevant between initial, level and renewal terms.

In complying with the requirements of Rule 6.4(1), Firms should also have regard to the standards of commission disclosure set out in SIF Guidance Release 1/94 and the PIA guidance on remuneration and expense disclosure. These are available on request from IMRO.

Note: Additional requirements for the disclosure of charges and other remuneration are contained in Rule 3.5(1).

(b) Paragraph (a) does not apply where:

(i) the Firm arranges or effects the transaction in its capacity as an Investment Manager; or

(ii) the Customer does not make a written application to enter into the transaction, provided that in this case the Firm gives the Customer an oral explanation of the commission or Commission Equivalent receivable and supplies the Customer with a written statement complying with the requirements of paragraph (a) as soon as possible after the transaction is effected or, at the latest, within three business days.

(c) A Firm which provides services as a Broker Fund Adviser must include any charges in respect of those services in the written statement produced in accordance with paragraph (a). If the statement is prepared by the Product Company and excludes such charges, the Firm must, before effecting any transaction, provide such information to the Customer in a separate written statement.

(d) Where the information required under paragraphs (a), (b) or (c) above has already been given to the Customer, and the terms of the Packaged Product or proposed Packaged Product concerned are varied, the Firm must ensure that a further written statement, complying with the requirements of paragraph (a), is provided, unless the variation of terms would not cause the commission or Commission Equivalent payable in respect of the transaction to increase by more than 10%, in which case the information may be supplied orally.

Note: The Transitional Provisions relating to this Rule ceased to have effect in respect of Packaged Products which are Life Policies from 1 January 1995 and for other Packaged Products from 1 May 1997.

6.4(2) Written statement of commission

Whenever a Private Customer asks for details of a Firm’s commission or Commission Equivalent in relation to a transaction or proposed transaction relating to a Packaged Product, the Firm must give or send to the Customer, as soon as reasonably practicable thereafter, a written statement setting out the amount or value in cash terms of the commission or Commission Equivalent payable in connection with that transaction and the terms on which it will be paid, together with such other information concerning the commission or Commission Equivalent as the Customer has reasonably asked for.

6.5 COLD CALLING

6.5(1) Complying with the Unsolicited Calls Regulations

A Firm may only enter into an Investment Agreement with any person or procure or endeavour to procure that person to enter into an Investment Agreement in the course of or in consequence of a Cold Call if the Firm observes the requirements of the Unsolicited Calls Regulations.

Note: Firms are required, under Rule 1.1(5) of Chapter IV to establish and maintain procedures governing the conduct of Company and Appointed Representatives when calling on or advising Private Customers.

6.5(2) Explaining cancellation rights to Customers

If a Cold Call involves a personal recommendation to a Private Customer relating to a Packaged Product, any applicable cancellation rights must be explained to the Customer.

Where a Key Features document is required under Rule 6.2(2), this must include an explanation of applicable cancellation rights. In other circumstances the explanation may be included in a Buyers, Guide given pursuant to paragraph (b) of Rule 6.1(1) or other brochure.
6.6 CANCELLATION

6.6(1) Contravention of Cancellation Rules

30.11.91

A Firm’s failure to observe any of the requirements of the Cancellation Rules shall be treated for all purposes of the Rules as a breach of the Rules.

6.6(2) Records to be kept

9.2.98; RN 44

A Firm must make a record of its receipt of any notice of cancellation served on it and the date on which such service became known to the Firm as soon as it first comes to know of such service. The record must be kept for at least three years.

[Guidance]

This requirement applies whether the right to cancel arises from the Cancellation Rules or otherwise. [RN 44]

6.6(3) Cancellation Notification: Pension annuities with Open Market Option

9.2.98; RN 44

In any case where a right to cancel is not conferred on a Policyholder by Case G of Table 1 to Rule 2.04 of the Financial Services (Cancellation of Life Policies) Rules 1994 and the Life Office is relying on a Firm to supply to the Policyholder a notification which complies with the requirements of Case J of Table 1, that Firm must supply such a notification to the Policyholder with the only or initial quotation.

Note: The requirements of Case J have been amended by the Financial Services (Cancellation) (Amendment) Rules 1997 which amend the 1994 Rules.

6.7 ADVISING ON PENSION TRANSFERS

6.7(1) Transfer Value Analysis

1.7.94; RS9

(a) A Firm must not recommend a transaction which involves a transfer of accrued pension benefits from an Occupational Pension Scheme to a Personal Pension Scheme unless:

(i) it has carried out a Transfer Value Analysis; and

(ii) the recommendation is consistent with the results of that analysis.

(b) The Transfer Value Analysis carried out under paragraph (a) of Rule 6.7(1) must include information concerning the rates of investment return which would need to be achieved for the Packaged Product to provide benefits which are the same as those afforded under the Occupational Pension Scheme.

(c) The Transfer Value Analysis carried out under paragraph (a) of Rule 6.7(1) must be given to the Customer and the Firm must take reasonable steps to enable the Customer to understand the nature of the analysis.

Guidance on the application of this Rule is given in Appendix 6.7(1).

6.7(2) Execution-only

1.7.94; RS9

Where a Customer proposes to enter into a transaction with a Firm as an Execution-only Customer and the transaction involves a Pension Transfer the Firm shall not enter into the transaction unless it has received a request in writing from the Customer requesting that it be treated as an Execution-only Customer and the Firm has reasonable grounds for believing that the Customer has sufficient experience and understanding to enter into the transaction on that basis.

(a) An ‘execution-only’ transaction is one where a Customer simply gives an order and does not rely on the Firm to give advice or exercise any judgement on his behalf about the merits of the transaction or its suitability.

(b) Authentic execution-only Pension Transfers are likely to be unusual where there has been personal contact or correspondence between the individual and an intermediary (whether tied or
independent). IMRO will view purportedly execution-only transactions with lively scepticism, and

a Firm should consider its position carefully before classifying a transaction as execution-only. The execution-only status of a transaction should be credibly evidenced. The Customer's signature on a standard form is by no means conclusive in this regard. A note from the Customer in his own words is best.

6.7(3) Projections
1.7.94; RS9

A projection must be given, in accordance with Rule 6.2(4), in relation to a Packaged Product in circumstances where a transaction is proposed which will involve a Pension Transfer. The projection must illustrate benefits which are comparable to those which would be offered by the Occupational Pension Scheme to which the Pension Transfer relates if the Customer were to be a member of the scheme until retirement.

Any illustration of the possible future benefits of the Personal Pension Scheme should approximate as far as possible to the replication of the main forms of benefit offered by the Occupational Pension Scheme (e.g. if applicable, escalation in payment at the Occupational Pension Scheme's rate, and provision for a surviving spouse at a level corresponding to that offered by the Occupational Pension Scheme). This does not preclude the supply of a non-matching illustration as well, where the Customer is interested in changing the structure of the eventual benefits.

TABLE

Table 6.2(3)(b)

Table 6.2(3)(b) Key Features: Contents requirements for Packaged Products other than Life Policies

<table>
<thead>
<tr>
<th>PART I</th>
</tr>
</thead>
<tbody>
<tr>
<td>KEY FEATURES AND IMPORTANT INFORMATION</td>
</tr>
</tbody>
</table>

The following information is to be included in the document required by paragraph (b) of Rule 6.2(3) and must be set out in the order shown, divided by appropriate and prominent sub headings. No other information may be included. The information may, however, be included with suitable prominence as part of a larger document.

(1) Heading
Include the following: "KEY FEATURES OF THE [Name of product]"

(2) Nature of Content
(a) Describe the nature of the product under the following headings: "ITS AIMS", "YOUR INVESTMENT" and "RISK FACTORS".

(b) Under "RISK FACTORS" give a brief description of the factors which may have an adverse effect on performance or are otherwise material to the decision to invest.

A Firm should include, if relevant, at least those risk warnings set out in paragraphs 23 to 35 of Appendix 1.1(1) to this Chapter.

(3) Requirements for Illustrations
No projection, illustration or forecast of the realisable value of an Investment may be given if the product is a Higher Volatility Fund. If an illustration of the benefits payable under the product is otherwise required or offered, it must be given using the rates of return specified by the rules of the PIA including an additional intermediate rate of return between the highest and lowest rates of return used. It must not be accompanied by any wording affecting its impact or meaning. It must always be given in writing. The following statements must also be given, where relevant, adjacent to the illustration:

(a) "These figures are only examples and are not
guaranteed - they are not minimum or maximum amounts. What you will get back depends on how your investments grow."

(b) "You could get back more or less than this."

(c) "All investment managers use the same rates of growth for illustrations but their charges vary."

(d) "Do not forget that inflation would reduce what you could buy in the future with the amounts shown."

(e) "(If the units or shares in which you invest are denominated in a currency other than sterling) the investment return could be affected by fluctuations in exchange rates."

(f) "Your pension income will depend on how your investment grows and interest rates at the time you retire."

These statements must appear sequentially with any projected values and in a size of type no smaller or less prominent than that used for the projected values.

(4) Mandatory use of Projection

An illustration in accordance with paragraph (3) above must be given where an Investment is recommended in circumstances in which a Private Customer’s primary object in entering into the Investment is to acquire a specified sum of money on a specified date, a specified sum of money on death or an annuity of a specified amount payable as from a specified date. A Firm may otherwise include an illustration at its discretion, but any such illustration must be presented in accordance with, and contain the information required by, paragraph (3) above. An illustration may be calculated either:

(a) on the basis of the actual amount(s) which the Customer is proposing to invest;

(b) on the basis of the amount(s) which fairly represents the type of business which the Firm conducts (or proposes to conduct) in relation to the Investment in question.

(5) Description of the Investment

a. A description of the principal terms of the investment, set out in the form of questions and answers, and any other information necessary to enable the Customer to understand the proposed investment.

b. In the case of Individual Pension Accounts:
   i. Providers of stakeholder pension schemes and personal pension schemes When a Firm is required to supply Key Features and the Firm wishes to highlight that investment will be made through an IPA, the information contained therein must include:
      A. a statement identifying by name any Scheme or Investment Trust in which units or shares are IPA eligible investments and which is to be or may be held as an asset of the stakeholder pension scheme or personal pension scheme, and
      B. a statement indicating which of those assets will benefit from the Stamp Duty Reserve Tax exemption available to IPAs.
   ii. Managers! Authorised Corporate Directors! distributors of regulated collective investment schemes and investment trust savings schemes Where a Firm elects to include within a Key features document for a Scheme or an Investment Trust a statement that some or all of the investments are IPA eligible investments it must include an indication, in respect of each such investment, as to whether pension scheme members will benefit from an exemption from
(6) Disclosure of Effect of Charges

The Firm must include the following under the heading "HOW WILL CHARGES AFFECT MY INVESTMENT?".

(a) A clear indication of the nature and amount or rate of any charges or expenses which the Customer will or may bear, including any charges which are deducted directly from the fund and are not attributable to any individual Customer and whether such charges are taken from capital or income.

(b) If it is the case, a statement that there are different buying and selling prices, that the difference between them is called the "spread" and an indication of where up to date prices can be obtained.

(c) A table as set out below after the statement "the effect of charges on an investment of £........, assuming growth of 6%/7% per year is set out below".

<table>
<thead>
<tr>
<th>At the End of Year</th>
<th>Investment to Date</th>
<th>Effect of deductions to date</th>
<th>What you might get back</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>£1</td>
<td>£1</td>
<td>£1</td>
</tr>
<tr>
<td>3</td>
<td>£3</td>
<td>£3</td>
<td>£3</td>
</tr>
<tr>
<td>5</td>
<td>£5</td>
<td>£5</td>
<td>£5</td>
</tr>
<tr>
<td>10</td>
<td>£10</td>
<td>£10</td>
<td>£10</td>
</tr>
</tbody>
</table>

Preparation of this table should be based on the following:

(i) The investment referred to in paragraph (c) above should be either the actual amount to be invested or a sum based on an example which fairly represents the type of business which the Firm conducts (or proposes to conduct) in relation to the Investment in question; or, where a projection is included in accordance with paragraph (4) above, the amount used as the basis for the projection.

(ii) If a projection is not required, a statement must be included under this table that the figures are not guaranteed, are based on notional rates of growth, which may not be achieved, and serve only to illustrate the effect of charges and expenses on the value of the investment.

(iii) An extra column headed "Withdrawals" or, in the case of pension fund withdrawals, "Total Income taken", should be included in the table only if the investor is entitled to exercise and has chosen to, or expressed the intention to, exercise the right to make partial withdrawals. "Withdrawals" must include distributions of income, if any.

(iv) A column headed "Redemptions" should be included where the Investment involves periodic redemptions at pre-determined intervals in order to make payments to the investor.

(v) A column headed "Income" should be included where the Investment distributes income and does not involve the automatic reinvestment of such distributable income.

(vi) In each case the arithmetic sum of the withdrawals, redemptions or income payments should be stated on the assumption that these are made throughout on the same basis as contemplated at the time the projections were prepared.
(vii) Under the heading "Effect of Deductions to Date" include figures for the cumulative effect of charges and expenses for each of the years shown; such figures must be calculated in accordance with paragraph (7).

(viii) Where the Investment is a Personal Pension Contract, for "What you might get back" substitute "What the transfer value might be" and make suitable amendments to the explanatory text. For pension fund withdrawals, substitute "Open market value".

(ix) If a projection under paragraph (3) above is not given, Firms must include in the table column headed "What you might get back" projections of the benefits which would be paid on the encashment of the Investment at the end of years 5 and 10, and may give such projections for years 1 and 3 or 1 to 4.

(x) Where, under paragraph (4) above, a projection is given, Firms must include in the table column headed "What you might get back" projections of the benefits which would be paid on the encashment of the Investment at the end of years 1, 3, 5 and 10 assuming for this purpose the growth rate used for illustrating the effect of charges. Projections may also be included for years 2 and 4. Any such projections must otherwise be calculated in accordance with the PIA rules. A projection must also be included for those years beyond the tenth year which appear in the table in accordance with paragraphs (3) and (4) above.

(7) Calculation method

For each year, figures must be given for the effect of charges assuming the fund grows in accordance with a relevant rate of return. These calculations must take into account all deductions and expenses which the Firm will or may levy against the fund and/or against the Customer's contribution(s), having regard to the principal terms of the Investment and any tax relief the Firm can claim against its own expenses ("appropriate charges"). The calculations must be made on the basis of the following principles:

(a) For each year accumulate the amount invested, at the relevant compound rate of return, to the end of each year, making due allowance for the "appropriate charges".

(b) For each year accumulate the amount invested, at the relevant compound rate of return, to the end of each year, but making no allowance for the "appropriate charges".

(c) The "Effect of deductions to date" is the amount calculated in (a) subtracted from the amount calculated in (b).

(d) (a) and (b) above must allow for any withdrawals or distribution of income.

(e) "What you might get back" must take into account any charges made on realisation.

(f) The "relevant rate of return" shall be:

(i) for Investments which are exempt from UK tax, 7% per annum;

(ii) for all other Investments, 6% per annum, unless a Firm believes that this rate would overstate the investment potential, in which case an appropriate lower rate must be used.

(g) Allowance must be made for the partial encashment of
units or shares or distributions of income where under the terms of the product the Customer has exercised or has expressed the intention of exercising an option to make such encashments or to receive such income or where such income or where such encashments or distributions will automatically apply. The allowance made should be in accordance with the estimated rate or amount, unless this would be inappropriate for the investment concerned.

(8) Commission/Remuneration

Under the heading "HOW MUCH WILL THE ADVICE COST?" the Firm must either include the statement prescribed at (a) below or give the details required under (b) below:

(a) "Your adviser will give you details about the cost. The amount will depend on the size and frequency of your investments. It will be paid for out of the charges."

OR

(b) The information concerning commission or remuneration payable in accordance with the requirements of Rule 6.4(1), including a statement that it is paid for out of the deductions and that the amount will depend on the size and frequency of the investment or investments made by the Customer.

(9) Further information

The following information must be included in the Key Features document, whether shown separately or as part of any other information required to be included in accordance with the other provisions of this Table:

(a) For all products:

(i) a clear indication, in one place, of the nature and amount or rate of any charges or expenses which the customer will or bear, together with a description and estimate of all other charges and expenses which will or may be attributable to any relevant fund expressed as an annual percentage charge against the fund;

(ii) whether income will be reinvested (and if so how) or how it will be paid to the Customer;

(iii) in the case of savings schemes, details of how to stop or leave a scheme and the position in respect of Investments held;

(iv) an explanation of any relevant cancellation rights or cooling-off procedure or, if applicable, a statement that these do not apply;

(v) how complaints and queries are dealt with and how further details of compensation arrangements (if any) can be obtained;

(vi) an indication of what a Customer’s liability (if any) to income tax and capital gains tax might be;

(vii) details about the holding of uninvested money, including whether interest is paid;

(viii) whether applications and payments will be acknowledged (and if so how) and whether Contract Notes or certificates are issued.

(b) For Regulated Collective Investment Schemes:
(i) where information detailing the latest estimated gross distribution yield and buying and selling prices can be found;

(ii) how and when the price of any Investment will be determined;

(iii) in the case of a series of Investments, how and when unit and share prices will be determined;

(iv) details of how and when statements (if any) will be sent;

(v) whether certificates will be issued and when they will be sent;

(vi) when units or shares will be valued and dealt in;

(vii) how units or shares may be redeemed, when payment on redemption will be made and (if this is the case) that for large deals the price may be lower;

(viii) the names of any Manager, trustee, custodian, depository or Authorised Corporate Director (as appropriate);

(ix) where and how copies of scheme particulars, annual and half yearly reports, prospectuses and annual reports and accounts can be obtained.

(c) For Investment Trust Savings Schemes:

(i) where information about the net asset value and latest dividend can be found;

(ii) where information about the investment trust share price, yield and premium/discount information can be obtained;

(iii) details of any nominees with whom shares are registered;

(iv) how shares can be sold and the sale proceeds are determined;

(v) whether there will be a statement of account showing details such as number and costs of share and balances of cash;

(vi) details of where the investment trust report and accounts may be obtained;

(vii) information about the manager and administrator of the scheme;

(viii) the Customer’s options in the case of items such as rights issues;

(ix) terminations or alterations by the scheme manager.

(d) For Individual Savings Accounts and Personal Equity Plans, in addition to the requirements of paragraph (a), (b) and (c) above:
(i) a description of the nature of the services which will be provided for the Customer, including if and how it is possible to switch from one Investment to another;

(ii) details of any charge (initial, annual or otherwise) which the plan manager may make;

(iii) details of the nominee with whom the Investments are registered;

(iv) an explanation as to how the plan may be terminated or transferred to another manager;

(v) a statement, if applicable, that the plan manager cannot reclaim tax relating to a tax credit attaching to a foreign income dividend or any equalisation distributed as income;

(vi) a statement, that any favourable tax treatment applicable may not be maintained;

(vii) for an ISA that is to be managed in accordance with the CAT Standards, comparison of the account against the CAT Standards;

(viii) if relevant, the information required in respect of an ISA by paragraphs 40 to 44 of Appendix 1.1.1 to this Chapter.

<table>
<thead>
<tr>
<th>(10) Other Information</th>
<th>If other information about the scheme is available on request, how it may be obtained must be explained.</th>
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Table 6.2(3)(b) Key Features: Contents requirements for Packaged Products other than Life Policies

**PART II**

**KEY FEATURES: CONTENTS REQUIREMENTS FOR AN ISA CASH DEPOSIT**

The following information is to be included in the document required by paragraph (b) of Rule 6.2(3) for an ISA Cash Deposit.

1. For an ISA to be managed in accordance with the CAT Standards, comparison of the account against the CAT standards. If the ISA is not to be managed in accordance with the CAT Standards, a statement to that effect together with, if desired, any relevant explanation.

2. The minimum amount required to open the account.

3. The maximum yearly deposit.

4. The interest rate to be earned, whether it might vary and if so, how.

5. The calculation of interest.

6. How to make withdrawals and any limits on these.

7. The amount of any commission and remuneration.

8. Details of the arrangements for the application of the Cooling-off Period.

9. The arrangements for handling complaints and an explanation of how the Customer may obtain further information about compensation arrangements.

10. An explanation that the favourable tax treatment for ISAs may not be maintained.

11. A statement that, where applicable, in the case of a cash component ISA the
investor’s money may not be covered by any consumer compensation scheme.

12. A statement, if applicable, that the Firm acts as agent in arranging the cash deposit, identifying the principal, and explaining that the principal has accepted responsibility for the activities of the Firm in relation to the cash deposit.

13. A statement that the investment is not necessarily appropriate for the investor, and that if in doubt he should seek financial advice for which he may have to bear the cost.

APPENDIX 6.1(1)(b) INFORMATION ON POLARISATION STATUS

4.11.96; RN32

This Appendix sets out the standards which a Firm should observe when disclosing its polarisation status.

PART I

When giving information about a Firm’s polarisation status to a Private Customer in accordance with Rule 6.1(1)(b), the Firm should provide the Customer with a copy of the Buyer’s Guide appropriate to the Firm’s status, in the form set out in Parts 2 and 3 of this Appendix unless:

1 the Firm believes on reasonable grounds that the Customer has received a copy on a previous occasion within the last six months; or

2 the Firm has a continuing relationship with the Customer and believes on reasonable grounds that the matters contained in the Buyer’s Guide have already been disclosed to the Customer.

PART 2

BUYER’S GUIDE TO LIFE ASSURANCE, PERSONAL PENSIONS AND INVESTMENT FUNDS APPROPRIATE TO A FIRM WHICH IS AN INDEPENDENT INTERMEDIARY

1 Advisers on life assurance, personal pensions and/or investment funds (unit trusts, open-ended investment companies and investment trust savings schemes) are of two types:

either representative of a particular company
or independent.

Both types of adviser should only recommend one of these products if they consider it suitable to your needs.

2 A representative of a particular company acts on its behalf and will recommend a product picked only from the range of those offered by that particular company.

3 Your adviser is independent. He (or she) will act on your behalf in recommending a product picked from the ranges of all the companies that make up the market place. Unless you come to some other arrangement with him, your adviser (or the firm he works for) will normally receive commission from the company whose product you buy. You will be given details of this commission by the company paying it and, if you ask him, by your adviser.

4 Your adviser is bound by the Rules of IMRO (Investment Management Regulatory Organisation Limited) which have been designed for your protection. They require that:

Appendix 6.4(1)(b) Information on Polarisation Status

(a) Your adviser must explain the main features of the product he is recommending to you; and should help you to understand the risks there may be and the costs there will be as well as the potential future benefits you could gain from it.

(b) Your adviser must tell you whether you have a right to change your mind before you commit yourself to buying the product. If you do change your mind, in some cases you may not get back all that you paid if investment values have fallen. Be sure to ask your adviser about any right to change your mind, and any cost you might incur by doing so.

5 The company whose product you buy will give you the following information in writing:

(a) Full details of the product, including how you pay, how much and for how long; its benefits to you; and an indication of the company’s expenses or charges that will be taken out of the money you pay. These expenses or charges may arise both at the time you first buy the product and also in the future.

(b) Details of the commission payable to your adviser (or the firm he works for). This commission will form part of the company’s expenses or charges.
(c) An indication, where your investment is a life policy, of how much money, if any, you would receive if you stop the policy within five years of taking it out.

6 Note carefully: If you want more information now about any of these matters, or if anything else is not quite clear to you, tell your adviser. It is his job to help you to understand everything you want to know.

7 Issuing this guide is a requirement of IMRO (Lloyds Chambers, 1 Portsoken Street, London, El 8BT. Tel: 0171 390 5000).

PART 3

BUYER’S GUIDE TO LIFE ASSURANCE, PERSONAL PENSIONS, AND INVESTMENT FUNDS APPROPRIATE TO A FIRM WHICH IS A TIED FIRM

1 Advisers on life assurance, personal pensions and/or investment funds (unit trusts, open-ended investment companies and investment trust savings schemes) are of two types:

either representative of a particular company;
or independent.
Both types of adviser should only recommend one of these products if they consider it suitable to your needs.

2 Your adviser is the representative of a particular company, [name of company]* [name of marketing group]**. He (or she) will act on its behalf, in the sense that he will recommend a product that is picked from the range of those offered by that particular company [or marketing group]. The representative (or the firm he works for) will be paid by the company whose product you buy.

3 An Independent Adviser acts on his client’s behalf in recommending a product picked from the ranges of all the companies that make up the market place.

Appendix 6.1(1)(b) Information on Polarisation Status

4 The Rules of IMRO (Investment Management Regulatory Organisation Limited) which have been designed for your protection, require that:

(a) The representative must explain the main features of the product he is recommending to you and should help you to understand the risks there may be and the costs there will be as well as the potential future benefits you could gain from it.

(b) The representative must tell you whether you have a right to change your mind before you commit yourself to buying the product. If you do change your mind, in some cases you may not get back all that you paid if investment values have fallen. Be sure to ask the representative about any right to change your mind, and any cost you might incur by doing so.

5 The company whose life policy you buy will give you the following information in writing:

(a) Full details of the product, including how you pay, how much and for how long; its benefits to you; and an indication of the company’s expenses or charges that will be taken out of the money you pay. These expenses or charges may arise both at the time you first buy the product and also in the future.

(b) Confirmation of the fact that the representative (or the firm he works for) acts for [name of company]* [name of marketing group]**.

(c) An indication, where your investment is a life policy, of how much money, if any, you would receive if you stop the policy within five years of taking it out.

6 Note carefully: If you want more information now about any of these matters, or if anything else is not quite clear to you, tell your adviser. It is his job to help you to understand everything you want to know.

7 Issuing this guide is a requirement of IMRO (Lloyds Chambers, 1 Portsoken Street, London El 8BT. Tel: 0171 390 5000).

* only include the name of the company if the company has no marketing group associates.

** include those words only if the company has one or more marketing group associates, with the name of the marketing group.

APPENDIX 6.3(6) CONFIRMING RECOMMENDATIONS IN RELATION TO PENSION TRANSFERS

9.2.98; RN44
This Appendix provides formal guidance to Firms on the standards to be observed when complying with the requirements of Rule 6.3(6) of Chapter II in relation to the recommendation of Pension Transfers.

(a) The 'reason why' requirement is designed as underpinning to the suitability obligation. Accordingly, the main purpose of the 'reason why' letter, as required under paragraph (a) of Rule 6.3(6), is to confirm the advice given to the Customer and to explain why that advice is suitable. In relation to a Pension Transfer, that explanation should take explicit account of the alternative of remaining within the Occupational Pension Scheme.

(b) The 'reason why' letter should demonstrate a real link between the circumstances, objectives and risk profile of the Customer, and the recommendation made to him or her by the Firm. It should reiterate the tenor of the particular advice given and the main considerations which prompted that advice. It should not be a mechanistic recitation of stock motives applicable to any and every transaction.

(c) The letter should ask the Customer to contact the Firm if there is something which needs to be clarified, or if further information is needed or if the letter does not accord with the Customer's view of the position.

(d) The letter may say that the Firm has relied on information supplied by the Customer and the Occupational Pension Scheme, but beyond that it should not contain disclaimers or exclusion clauses.

(e) In particular relation to opt outs, not only should disadvantages be clearly set out, but there should also be an arithmetic analysis setting out the financial implications of leaving the Occupational Pension Scheme.

(f) Where a copy of the 'fact find' is given to the Customer, the 'reason why' letter can take the form of a section in the fact find, provided that section is completed in a way that meets the criteria set out above.

(g) Whatever its format, the 'reason why' letter should be supplied to the Customer as soon as reasonably practicable after the recommendation has been made, and, in any event, in time for the start of the Cooling-off Period. [RN 44]

(h) It is up to the product provider or Independent Intermediary to decide how to organise the preparation and despatch of such letters. The individual adviser could prepare and issue the letter or it could be sent out by some central agency within the Firm. Whatever route is used, there should be such controls and systems in place as are necessary to ensure that the 'reason why' letter is consistent with the fact find, explains why the recommendation is suitable for the particular individual concerned, and is expressed in terms comprehensible to the average investor.

APPENDIX 6.7(1) ADVISING ON PENSION TRANSFERS

(a) There will occasionally be Customers who are advised by a Firm against proceeding with a Pension Transfer or opt out but who, nevertheless, insist on going ahead with the transaction.

(b) It is always open to the Firm to refuse to become involved in executing the instructions of the Customer. However, if the Firm is prepared to proceed with the arrangement, then, in compliance with the requirements of paragraph (b) of Rule 6.3(6) of Chapter II, the following steps should be taken:

(i) The Customer should have the position fully explained, including the implications of the choice, and this advice should be confirmed in a letter.

(ii) The Customer's decision to override the Firm's recommendation should also be credibly evidenced. Disclaimer forms and pre-printed letters using stock phrases should not be used since they cast doubt upon the genuineness of the process. A note from the Customer in his own words is best.

(iii) The Firm's officers will be expected to record the number of cases in which Customers override the advice of financial advisers within the organisation and to investigate thoroughly those cases where there may be doubts about the credibility of the actions taken by the Customer.

(c) IMRO will pay particular attention to this area, looking for evidence of patterns developing and 'formula' selling.
This Appendix provides Firms with formal guidance on the application of Rule 3.1(1) and Rule 6.7(1) of Chapter II. It should also be read in conjunction with the Principles and other Rules and regulatory requirements applicable to Pension Transfers. Firms should supply a copy of this guidance to a Customer who requests it.

PART 1
OPT OUTS: PROSPECTIVE INVESTORS WHO ARE CURRENT OR PROSPECTIVE MEMBERS OF OCCUPATIONAL PENSION SCHEMES

In this part 'opt-out' refers to the situation where an individual withdraws from or decides not to join an Occupational Pension Scheme and instead takes out a Personal Pension Scheme.

(a) Defined benefit occupational pension schemes

(i) The starting point for a Firm considering the situation of an active member of a 'defined benefit' Occupational Pension Scheme should be to assume that it would not be suitable to recommend opting out into a Personal Pension Scheme.

(ii) If an opt out is recommended, the onus is on the Firm to demonstrate that, on the evidence available at the time, it appears bona fide to be in the Customer's best interests. An opt out is presumed to be adverse to the interests of the individual concerned unless the contrary can be affirmatively shown.

(iii) Any Firm contemplating giving advice in favour of an opt out should identify the specific rights and benefits available to the prospective investor under the Occupational Pension Scheme and consider carefully the effects on the investor's situation of their replacement by the very different benefits of a Personal Pension Scheme. An analysis should be carried out, by someone competent to do so, of the Occupational Pension Scheme data compared with the available personal pension products. A number of factors relating to the occupational scheme should be taken into account including:

- spouse's, dependants' and children's pensions;
- early retirement provision, including retirement in ill-health;
- revaluation rates both in deferment and payment, and whether they are guaranteed or discretionary (and if discretionary, whether likely to continue);
- ancillary benefits (e.g. tax-free cash or lump-sum death benefits);
- transfer club arrangements, if applicable;
- the investor's contribution/the employer's contribution;
- benefits on leaving service.

(iv) Additional factors, such as the following should also be taken into account:

- Whether or not the employer would contribute to the Personal Pension Scheme.
- Whether or not eligibility for other benefits, such as permanent health insurance, is dependent on being a member of the Occupational Pension Scheme.
- The financial security of the Occupational Pension Scheme, by reference (for example) to the last actuarial statement or the most recent trustees' report and accounts.
- The charging structure of the prospective Personal Pension Scheme, and its impact on transfer values in the early years.
- Finally, there will be a number of subjective factors which may be relevant in relation to the prospective investor's circumstances. These include:

  - Future career plans and earning prospects (including any reasonable likelihood of job progression making the prospective investor eligible for a better occupational scheme), and intended retirement date.
  - Attitude towards earnings-related compared with money-purchase benefits.
  - Attitude to financial risks and security.
  - A possible wish to make pension arrangements separate from employment (e.g. because the prospective investor is on a short-term non-renewable employment contract or does not expect to stay in his current employment for more than a short period).
  - Any value the investor attaches to personal control.
- The investor's cash needs.

Where a transfer value may be taken in respect of all or part of the individual's benefit the factors set out below should also be taken into account.

(b) Prospective investors who are changing employment

If the prospective investor is changing - or has changed - employment, the considerations outlined above should be considered in relation to any scheme operated by the new employer for which the prospective employee is eligible, or will become eligible in the foreseeable future.

(c) 'Money purchase' Occupational Pension Schemes

The presumption against opting out extends to membership of money-purchase Occupational Pension Schemes, and thus the guidance above should also be followed in situations where a prospective investor is an active or prospective member of such a scheme to the extent that the factors listed are relevant to such schemes (e.g. if membership of the scheme attracts an employer's contribution not otherwise payable or renders the individual eligible for ancillary benefits such as permanent health insurance). Another factor will be a comparison of the investment vehicle within the Occupational Pension Scheme with any alternative vehicle under a Personal Pension Scheme.

(d) Documentation and record keeping

Firms should ensure that any transactions involving an opt out are thoroughly documented and that those transactions can be identified by the Firm.

Note:

These records are to be kept indefinitely (Rule 3.1(4) and paragraph (b) of Rule 6.3(3) of Chapter II and Part VIII of Table 1.6(2) of Chapter IV).

PART 2

TRANSFERS: PROSPECTIVE INVESTORS WHO HAVE DEFERRED BENEFITS

(a) Transfers from defined benefit Occupational Pension Schemes

(i) The position is more finely balanced when a prospective investor currently has deferred benefits from a final salary Occupational Pension Scheme (i.e. a defined benefits scheme) and is considering transferring these benefits to a Personal Pension Scheme.

(ii) Advice on whether to transfer deferred benefits should be preceded by a detailed consideration of the ceding scheme compared with the Personal Pension Scheme, and of the personal circumstances and objectives of the investor. A fact find designed with Pension Transfers in mind will be needed. A properly established process is necessary to ensure the suitability of the advice provided.

(iii) The process should include procedures:

- for gathering ceding scheme information (see paragraph (iv) below);

- to assess the prospective investor's attitude to risk and security; this is relevant not merely to the choice of contract or fund, but also (and more fundamentally) to the choice between an Occupational Pension Scheme and a Personal Pension Scheme in the first place;

- to ascertain the prospective investor's career aspirations and desired retirement age and to consider what a realistic retirement would be, having regard to the size of the transfer value and the extent to which it can be converted into a stream of income before state pension age;

- to ascertain whether the prospective investor's new employer (if any) has arrangements to accept transferred benefits;

- enabling the financial adviser to look at other pension options, if available;

- for carrying out an analysis of the yield required to match the benefits under the ceding scheme (see paragraph (vii) below);

- for enabling the prospective investor to receive sufficient, clear information to make an informed investment decision based on a firm understanding of the risks involved and a knowledge of what protection, rights, expectations and options they may be giving up (see paragraph (vii) below).

The various steps in this process make it most unlikely that Pension Transfer business can be concluded on the basis of a 'single visit' sale.
(iv) The Firm should obtain the following information as a minimum for the ceding scheme in respect of the investor:
- spouse's, dependants' and children's pensions;
- early retirement provision, including retirement in ill-health;
- transfer value quote detailing;
- guarantee period;
- pre/post April 1988 guaranteed minimum pension/excess;
- revaluation rates both in deferment and payment, and whether they are guaranteed of discretionary (see paragraph (v) below);
- tax free cash arrangements;
- lump sum death benefits;
- transfer club arrangements, if applicable;
- relevant earnings;
- period of service;
- scheme details (e.g. benefits, bridging pensions, guarantee periods, position pre/post normal retirement date, history of discretionary increases);
- whether members' benefits have been equalised for service from 17 May 1990;
- ill-health benefits.

(v) To the extent that benefits are discretionary, consideration should be given to the likelihood of their continuation, and to how far they are reflected in the transfer value.

(vi) Consideration should also be given to the implications of the scheme's financial position (e.g. the significance of a deficit or surplus) and to whether the transfer value has been reduced because the scheme is underfunded.

(vii) Under Rule 6.7(1) a Transfer Value Analysis must be undertaken or obtained. The analysis should be based on a proper consideration of all the relevant factors. It should be documented and recorded before firm investment advice is offered to the prospective investor. The results of this analysis should be discussed with the latter in simple clear language.

Note: Guidance on the standards applicable to the design and use of Transfer Value Analysis systems will be issued in due course.

(ix) Relevant items of information for the prospective investor include:
- the different character of the risks associated with Personal Pension Scheme and defined benefit Occupational Pension Scheme provision;
- the impact of fluctuations in annuity rates on the size of the eventual pension;
- the impact of protected rights on the planned retirement date;
- changes to the tax-free cash;
- any reduction in immediate death benefits;
- the Transfer Value Analysis including an indication of the rate of growth needed to ensure the investor is no worse off.

(x) As well as ensuring that its advice to the prospective transferor is suitable, the Firm should consider the position and interests of the prospective transferor's spouse and dependants.

(b) Transfers from money-purchase Occupational Pension Schemes

(i) The general points set out in paragraphs (a)(ii) and (a)(iii) above also hold in relation
to a prospective transfer from a money-purchase Occupational Pension Scheme, save that there is no obligation to undertake a Transfer Value Analysis.

(ii) In assessing the suitability of the prospective transfer and in explaining its financial implications to the prospective transferor, particular attention should be given to whether there is sufficient reason for the investor to incur early transfer penalties or a new set of front-end charges, if this will be an effect of the transfer.

(iii) Relevant items of information for the prospective investor include:
- how the transfer affects the investment risks;
- how the effect of charges or expenses differs between the schemes;
- changes to the tax-free cash;
- any reduction in immediate death benefits.

(c) Conclusion on transfers of deferred benefits to personal pension arrangements

(i) Firms may find it difficult to demonstrate compliance with the relevant Rules if the process outlined above has not been completed and fully documented, including the collection of the relevant information from the ceding scheme and the prospective investor, and clear provision of the necessary information to the latter. The records should be kept indefinitely.

(ii) The process will by no means point to all Customers being confirmed as prospects for the sale of personal pension plans or section 32 contracts. It will confirm that many Customers would be better advised to remain in their Occupational Pension Schemes or to transfer to a new employer's scheme.

SECTION 7 Management of Collective Investment Schemes

7.1 APPLICATION OF THE RULES TO SCHEME MANAGEMENT ACTIVITY

7.1(1) Scope of the Rules in this Section

30.11.91

The Rules in this Section apply only to a Firm which is an Operator of a Collective Investment Scheme when it is undertaking Scheme Management Activity.

Note:

The Rules in this Section modify the application of relevant Conduct of Business Rules to Operators of Schemes when they are undertaking Scheme Management Activity. The Conduct of Business Rules apply without modification to such Firms when they are carrying on other Regulated Business. For example, a Firm which is the Operator of a Collective Investment Scheme would be required to observe the appropriate Advertising Rules when promoting the Scheme.

7.1(2) Application of the Conduct of Business Rules

16.2.96; RN24

Rules 1.1(1) to 6.7(3) and Rules 8.1(1) to 11.8(1) of this Chapter do not apply to a Firm which is an Operator of a Collective Investment Scheme when undertaking Scheme Management Activity except as provided in Rules 7.1(3) to (5).

7.1(3) Operators of Unregulated Collective Investment Schemes

2.2.98; RN38

Subject to Rules 7.1(1), (2) and (5), the following Rules in this Chapter apply to an Operator of an Unregulated Collective Investment Scheme, in addition to the applicable Rules contained in this Section:

(a) 1.6(1) (Inducements)
    1.7(1) to (4) (Soft Commission)
    3.1(1) to (2) (Suitability)
    3.4(1) to (2) (Reasonable Charges)
    3.6(1) (Customer Order Priority)
3.7(1) (Timely Execution)
3.8(1) to (2) (Best Execution)
3.9(1) to (6) (Timely Allocation)
3.10(1) to (3) (Fair Allocation)
3.11(1) paragraphs (a) (ii) and (b) (ii) (Churning and Switching)
4.3(5) (Reporting Transactions)
5.1(1) to (9) (Safeguarding and administration of Customers' assets);

(b) 4.1(1) paragraph (a) (Fair and clear communications) in relation to the provision of Scheme Documents and Periodic Statements for a Scheme.

7.1(4) Operators of Regulated Collective Investment Schemes

162.96; RN24

Subject to Rules 7.1(1), (2) and (5), the following Rules in this Chapter apply to an Operator of a Regulated Collective Investment Scheme, in addition to the applicable Rules contained in this Section:

1.6(1) (Inducements)
1.7(1) (a) to (d) (Soft Commission)
and 1.7(2)
3.4(1) to (2) (Reasonable Charges)
3.6(1) (Customer Order Priority)
3.7(1) (Timely Execution)
3.8(1) to (2) (Best Execution)
3.8(1) to (2) (Best Execution)
3.9(1) to (6) (Timely Allocation)
3.10(1) to (3) (Fair Allocation)
3.11(1) paragraphs (a) (ii) and (b) (ii) (Churning and Switching)
4.3(5) (Reporting Transactions)

7.1(5) Special meaning of "Customer" and "Customer Agreement"

30.11.91

The Rules contained in this Chapter applying to a Firm which is an Operator of a Collective Investment Scheme when undertaking Scheme Management Activity shall be construed (unless otherwise expressly provided in this Section) on the basis that references to a Customer are references to the Scheme and references to a Customer Agreement are references to the Scheme Documents.

7.2 SCHEME DOCUMENTS

7.2(1) Contents of Scheme Documents

30.11.92; RN10

A Firm which is the Operator of an Unregulated Collective Investment Scheme in which any participant is a Private Customer must not undertake any Scheme Management Activities relating to the Scheme unless it has:

(a) used reasonable endeavours to ensure that the Scheme Documents include the matters recommended in Appendix 7.2(1); and

(b) offered the Scheme Documents to the Customer, and supplied them to him on request.
In complying with its obligations under Rules 2.2(1) to 2.4(6) of this Chapter a Firm should observe the requirements of Rule 7.2(1).

7.3 CONTRACTING OUT OF THE DUTY TO SECURE BEST EXECUTION

7.3(1) Contracting out of the duty to secure Best Execution: Non-private Customer's Scheme

30.11.91

An Operator of a Non-private Customer’s Scheme which is an Unregulated Collective Investment Scheme may contract out of the duty to secure Best Execution under Rule 3.8 by so providing in the Scheme Documents.

7.4 MATERIAL INTERESTS

7.4(1) Material Interests and conflicts of interest

30.11.91

Where a Firm has a Material Interest in a transaction to be entered into with or for a Customer, or a relationship which gives rise to a conflict of interest relating to such a transaction, the Firm must not knowingly either advise, or deal in the exercise of discretion, in relation to that transaction unless it takes reasonable steps to ensure fair treatment for the Customer.

Note:
This Rule applies in relation to Operators of both Regulated and Unregulated Collective Investment Schemes.

7.4(2) Fair treatment

3.2.97; RN34

When taking reasonable steps to ensure fair treatment for the Customer, a Firm which is an Operator of a Collective Investment Scheme, which has a Material Interest or conflict of interest relating to a transaction for the Scheme, must satisfy itself that the transaction is not precluded by law or, where applicable, by the Regulated Schemes Regulations or the Open-Ended Investment Companies Regulations, or by the Scheme Documents and that:

(a) the Scheme Documents expressly permit such transactions to be effected despite the existence of a Material Interest or conflict; or

(b) the Firm has fairly disclosed the potential interest or conflict in the initial prospectus, or in its most recent report to the participants or to the Trustee of the Scheme, not more than 12 months before the date of the transaction; or

(c) where such disclosure was impracticable, the Firm, in effecting the transaction, disregards the interest or conflict so that any disadvantage to the Scheme is avoided, or eliminates the interest or conflict.

7.5 PERIODIC INFORMATION

7.5(1) Periodic Statements of Scheme Portfolio

16.2.96; RN24

Subject to Rules 7.5(2) and (3), a Firm which acts as an Investment Manager for a Customer must ensure that he is sent at suitable intervals a report stating the value of the portfolio or account at the beginning and end of the period, its composition at the end and, in case of a discretionary portfolio or account, changes in its composition between those dates.

In complying with this Rule a Firm which is an Operator of an Unregulated Collective Investment Scheme should prepare a Periodic Statement of the property held for or within the Scheme’s portfolio and send it to each participant in the Scheme, for each period of account identified in the Scheme Documents, at least once:

(a) in every six months; or

(b) in any other period, not exceeding twelve months, which has been mutually agreed between the Firm and the participant;

provided that each such Periodic Statement is sent to participants within 25 business days or, in the case of a Scheme the portfolio of which is comprised exclusively of Venture Capital Investments, or a Scheme which is a Property Unit Trust, 50 business days after the date as at
which the statement is made up.

Note:

This Rule, which can also be found as Rule 4.5(1), has been repeated here in relation to the Operators of Unregulated Collective Investment Schemes for the sake of convenience.

7.5(2) Application of Rule 7.5(1)

30.11.91

Rule 7.5(1) shall apply only to a Firm which is an Operator of an Unregulated Collective Investment Scheme on the basis that a reference to a participant in the Scheme shall be substituted for the reference to a Customer.

7.5(3) Exceptions to Rule 7.5(1)

16.2.96; RN24

If a Private Customer resident overseas, or a Non-private Customer, who is a participant in a Scheme:

(a) has requested the Firm not to send him Periodic Statements, or the Firm has reasonable grounds for believing that he does not wish to receive them; or

(b) has requested that certain information be omitted from, or has specified what information is to be contained in, any Periodic Statement to be sent to him;

the Firm shall not be required by Rule 7.5(1) to ensure that a Periodic Statement is sent to him or that it contains all of the information required by Rules 7.5(1) and (4).

7.5(4) Required contents

16.2.96; RN24

(a) All portfolios

Each Periodic Statement sent pursuant to Rule 7.5(1) to a participant in an Unregulated Collective Investment Scheme in relation to the Scheme’s portfolio must, subject to paragraph (c), include the information in Part I of Table 4.5(5).

(b) Open Position

Each Periodic Statement sent to a Customer in relation to a portfolio which may include Open Positions in Derivatives must include the information in Part II of Table 4.5(5).

(c) Property Unit Trusts

Where the Unregulated Collective Investment Scheme is a Property Unit Trust, it will be sufficient for the Periodic Statement to disclose the number of properties held in successive valuation bands where this is appropriate to the size and composition of the Scheme, rather than the value of each asset in the portfolio.

IMRO considers that valuation bands of over £10m, £5-£10m, £2.5-£5m, £1-£2.5m and under £1m would normally be appropriate, unless a Firm could show that different bands were justifiable in the circumstances.

7.6 COMPLIANCE WITH FINANCIAL SERVICES (REGULATED SCHEMES) REGULATIONS

7.6(1) Contravention of the Regulations

3.2.97; RN34

A Firm which is an Operator of a Regulated Collective Investment Scheme and which contravenes any of the applicable requirements of the Regulated Schemes Regulations or the Open-Ended Investment Companies Regulations shall be treated as having contravened the Rules.

Guidance on correction and compensation for incorrect pricing of Authorised Unit Trust Schemes is set out at Appendix 7.6(1)(a). Guidance on the valuation and pricing of UK Open-ended Investment Companies is set out at Appendix 7.6(1)(c). Guidance on the correction of box management errors in relation to Authorised Unit Trust Schemes and UK Open-ended Investment Companies is set out at Appendices 7.6(1)(b) and (d) respectively.

7.7 SIGNIFICANT INFLUENCE OVER COMPANY MANAGEMENT

7.7(1) Acquisition of Securities carrying voting rights

30.11.91
A Firm which is the Operator of a Regulated Collective Investment Scheme may not acquire or cause to be acquired for the Scheme the Securities of any Body Corporate if they carry voting rights which, taken together with those of any such Securities which the Firm as Operator already holds for that Scheme or for other Regulated Collective Investment Schemes, would give the Firm power significantly to influence the conduct of business of that Body Corporate.

7.7(2) Firm to reduce influence

30.11.91

(a) If the Firm acquires the power significantly to influence the conduct of business of a Body Corporate in circumstances or for reasons beyond its control, it must take steps to reduce that power below the significant level by disposing of Securities as soon as reasonably practicable having regard to the interests of present and future participants in the Scheme or Schemes concerned, and in any case within six months of becoming aware that it has acquired that power.

(b) If a Firm acquires the power significantly to influence the conduct of a Body Corporate in consequence of its own decision, it must take immediate steps to dispose of Securities to reduce the power below the significant level, and if that action results in a loss being sustained by a Scheme the Firm shall from its own resources compensate the Scheme with cash.

7.7(3) Definition of significant influence

30.11.91

For the purposes of Rules 7.7(1) and (2) a power significantly to influence the conduct of business of a Body corporate arises if the Firm exercises or controls the exercise of 20% or more of the votes eligible to be cast at general meetings of that body (disregarding for this purpose any temporary suspension of voting rights in respect of the Securities of that body).

7.8 RECORDS

7.8(1) Records relating to Collective Investment Schemes

30.11.91

(a) A Firm must keep the records specified in Part VI of Table 1.6(2) of Chapter IV in relation to each Regulated Collective Investment Scheme of which it is the Operator.

(b) A Firm must keep the records specified in Part VII of Table 1.6(2) of Chapter IV in relation to each Unregulated Collective Investment Scheme of which it is the Operator.

APPENDIX 7.2(1) CONTENTS OF SCHEME DOCUMENTS TO BE GIVEN TO PRIVATE CUSTOMERS

16.2.96; RN24

Where relevant, the Scheme Documents should contain some provision on the following:

1. Regulator

that the Firm regulated in the conduct of its Investment Business by IMRO;

2. Services

the nature of the services that the Firm will provide to the Scheme;

3. Investment Objectives

the investment objectives for the portfolio of the Scheme (the "portfolio");

4. Restrictions

either:

(a) any restrictions on:

(i) types of Investments or property which may included in the portfolio; or

(ii) markets on which Investments or property may be acquired for the portfolio; or

(iii) the amount or value of any one Investment or asset, or on the proportion of the portfolio which any one Investment or asset or any particular kind of Investment or asset may constitute; or

(b) that there are no such restrictions;
(5) Investments in other Collective Investment Schemes

whether or not the portfolio may contain units in a Collective Investment Scheme either operated or advised by the Firm or by an Associate of the Firm or in a Collective Investment Scheme which is not a Regulated collective Investment Scheme;

(6) Investments in Securities underwritten etc. by Firm

whether or not the portfolio may contain Securities of which any issue or offer for sale was underwritten, managed or arranged by the Firm or by an Associate of the Firm during the preceding twelve months;

(7) Borrowings

whether or not the Firm may supplement the funds in the portfolio by borrowing and, if so:

(a) the circumstances in which the Firm may do so;

(b) whether there are any limits on the extent to which the Firm may do so and, if so, what those limits are; and

(c) the circumstances (if any) in which such limits may be exceeded;

(8) Underwriting Commitments

whether or not the Firm may for the account of the portfolio underwrite any issue or offer for sale of Securities and, if so:

(a) whether there are any restrictions on the categories of Securities which may be so underwritten and, if so, what those restrictions are; and

(b) whether there are any financial limits on the extent of such underwriting and, if so, what those limits are;

(9) Contingent Liability Transactions

(a) whether or not the firm may enter into Contingent Liability Transactions for the account of the portfolio;

(b) if applicable, whether or not there are any limits on the amount that may be committed by way of margin and if so, what those limits are; and

(c) if applicable, that the Firm has the authority to effect Contingent Liability Transactions otherwise than under the rules of a Recognised or Designated Investment Exchange and in a contract traded thereon, and is permitted to do so under the Rules;

(10) Remuneration

in respect of any remuneration chargeable to the Scheme or the property of the Scheme or participants in the Scheme:

(a) the basis of the calculation;

(b) how it is to be paid and collected; and

(c) how frequently it is to be paid;

(11) Accounting

the arrangements for accounting to the Scheme or participants in the Scheme for any transaction effected;

(12) Holding of Scheme assets,

(a) whether the Firm will hold money or will be the registered holder of registered Investments or the custodian of documents or other evidence of title to property in the Scheme; or

(b) whether some other person will act in any of those ways and, if so, whether that person is an Associate of the Firm, describing the nature of any association; and

(c) where Scheme Documents provide for the holding and/or custody of money and/or Investments and/or documents or other evidence of title to property in the Scheme and/or other property:
(i) any money is to be deposited;

(ii) whether or not Investments or documents or other evidence of title to property in the Scheme or other property in the scheme can be lent to a third party and whether or not money can be borrowed against the security of those Investments, documents or other evidence of title to property in the Scheme or property and, if so, the terms upon which they may be lent or offered as security as the case may be;

(iii) whether or not the Firm accepts liability for any default by any person mentioned in paragraph (12)(b);

(iv) arrangements for accounting to the Scheme for all income received (including any interest on money and any monies, fees or commissions earned by lending Investments, Customer Title Documents or other property in the Scheme to any third party) and for rights conferred in respect of any Investment or property so held;

(v) arrangements for determining the exercise of any voting rights conferred by any such Investments;

(13) Commencement
when and how the Firm is to be appointed;

(14) Termination
how the appointment of the Firm may be terminated;

(15) complaints procedure
guidance on how to complain to the Firm, including a statement that participants in the Scheme also have a right of compliant direct to the Investment Ombudsman;

(16) Rights to Compensation
rights to compensation if the Firm is unable to meet any of its liabilities to the Scheme or the participants in the Scheme, or a reference to the availability of a statement describing those rights;

(17) Material Interests and Conflicts
a statement, if it is the case, that the Firm is to have the right under the agreement or instrument constituting the Scheme to effect transactions in respect of which the Firm has, directly or indirectly, a Material Interest (except for an interest arising solely from the mere participation of the Firm in the transaction as agent for the Scheme) or conflict of interest together with a disclosure of the nature of any such interest or conflict;

(18) Use of Soft Commission Agreements
if the Firm is authorised under the Scheme Documents to effect transactions with or through the agency of another person with whom the Firm has a Soft Commission Agreement, the prior disclosure required by paragraph (e) of Rule 1.7(1);

(19) Periods of Account
the periods of account which statements of the portfolio are to be provided in accordance with Rule 7.5(1) and whether those statements will include some measure of performance, and, if so, the basis of that measurement;

(20) Stabilised Investments
if applicable, that the Firm is to have the right under the Scheme Documents to effect transactions in Investments the prices of which may be the subject of Stabilisation.

APPENDIX 7.6(1)(a) INCORRECT PRICING OF UNIT TRUSTS - CORRECTION AND COMPENSATION

3.2.97; RN34

PART 1
GUIDANCE ON PRICING CONTROLS BY MANAGERS

1.1 The de minimis provisions set out in Part 4 below will normally come into play only where the Manager has adequate controls over pricing. The following paragraphs set out the minimum checks which IMRO expects Managers to carry out.

1.2 Share prices and currency rates used should be up to date and from a reputable source. The mere use of a source for prices and rates does not amount to delegation under Regulation 7.15
of the Regulated Schemes Regulations ("the Regulations"). Although it should not be necessary
to carry out significant substantive checking, the reliability of the source of prices and
rates should be kept under regular review, and doubtful prices or rates followed up.

1.3 However, use of a third party to carry out the pricing function does amount to delegation,
and, if the pricing agent is an associate of the Manager or the trustee, the Manager still
retains responsibility under Regulation 7.15.5. If the pricing agent is not such an associate,
the Manager still retains certain responsibilities under Regulation 7.15.6, and he may wish to
easure that the pricing agent contracts to provide the service on a basis which acknowledges
the responsibilities of the Manager for correct pricing.

1.4 Where the pricing function is delegated in this way, the Manager will still need to
satisfy himself that the delegate’s system is robust and will produce accurate results. The
Manager should review the outputs from the system annually, and on any significant system
change. This will enable the Manager to satisfy himself that the pricing agent remains
competent to carry out the function, and that he has taken reasonable care to ensure that the
pricing agent has carried out his duties in a competent manner (as required by Regulation
7.15.6). In addition, if the pricing agent is also responsible for calculating dealing prices of
units, the Manager must ensure that this system is reviewed to his satisfaction at least
annually.

1.5 Unless the valuation and record keeping systems are integrated, the valuation output
should be agreed with the Manager’s records of the fund at each valuation point. In addition,
the Manager’s records, including debtors and creditors, should be agreed with the trustee’s
records of stocks and both capital and income cash at least monthly, with reconciling items
followed up promptly, and debtors reviewed for recoverability.

1.6 Systems should be in place whereby all securities deals are confirmed in writing as
quickly as possible to the Manager, or pricing agent, by fax or telex if necessary. It is
desirable that all deals to which the fund is committed, which have been notified at most one
hour before the valuation, are included in the valuation, at estimated prices if necessary.
But, unless there is likely to be a significant price movement, it is more important that an
accurate cut-off procedure is in place to ensure that omissions or duplications do not take
place, than that estimates are included in the valuation.

1.7 Where prices are obtained otherwise than from the main pricing source (e.g. unquoted,
suspended, or illiquid stocks) the Manager should maintain a record of the source and basis
for the value placed on the investment. These should be regularly reviewed.

1.8 A system should be in place to ensure that the restrictions on investment and borrowing
powers are not breached, and that if breaches occur they are identified and rectified in
accordance with Regulation 7.14.

1.9 A system should be in place to ensure that dividends are accounted for as soon as stocks
are quoted ex-dividend, unless as with some foreign stocks, it is prudent to account for them
only on receipt. Fixed interest dividends and interest should

be accrued at each valuation point unless the level of materiality makes a longer interval
appropriate. Similar considerations apply to the expenses of the trust.

1.10 The full tax position should be reviewed at least quarterly, including the basis for the
current tax charge, the assumptions being used, and the tax rate applicable. Consideration
should also be given to the ACT recovery position, adjustments to previous tax computations,
and withholding tax recoveries. Adjustments should be made for substantive changes (e.g.
alterations to the tax profile or likely tax charge) when they occur.

1.11 The justification for the figures included for dealing expenses and commissions included
in the price should be reviewed at least quarterly, separately for different markets.
Adjustment should be made for substantive changes (e.g. changes in the rate or basis of stamp
duty) when they occur.

1.12 The Manager should fix a percentage or absolute limit for certain key elements of the
valuation, such that any movement outside these limits is investigated, and the investigation
and its outcome should be evidenced by signature. These key elements should include the
movement of the overall price of the fund against relevant markets, the movement of individual
stocks, changes in the currency rate, and accrual figures for income, expenses, and tax. In
addition, prices which appear not to have changed after a fixed period of time should be
investigated, since this may be the result of a price movement having been missed.

1.13 Cash should be reconciled to the bank account regularly, with outstanding items promptly
followed up, and a full reconciliation sent to the trustee monthly.

1.14 Controls should be in place to ensure the correct number of units in issue is recorded to
each valuation point. This should be reconciled with the unitholder register at least monthly.

1.15 A copy of the valuation should be sent to the fund manager at least weekly. He should
specifically check that the correct securities are recorded.
PART 2
GUIDANCE ON PRICING CHECKS BY TRUSTEES

2.1 The trustee has a duty to ensure the Manager's pricing operation is properly controlled. The following paragraphs therefore set out the minimum checks which IMRO will expect trustees to carry out to satisfy themselves that the Manager's pricing operation is adequately controlled, so that the likelihood of incorrect prices will be minimised.

2.2 The essential control is that the trustee should carry out a thorough review of the Manager's overall system for pricing and an analysis of his controls, to indicate the extent to which reliance can be placed on them. This review should be carried out at the start of the trustee’s appointment, and on any major change in the Manager’s system, and kept under review in the meantime, to ensure that a series of minor changes do not have a significant effect on the accuracy of the system.

2.3 Where the trustee has concluded that the Manager’s controls are satisfactory, the trustee should still review the controls at least once a year, to see evidence of procedures being adhered to, and controls operating. Additionally, at least once a year, the trustee should carry out a check of the valuation of each fund including verification, on a sample basis if necessary, of all assets, liabilities and accruals, units in issue, and any accumulation factor.

2.4 Where the Manager’s systems are manual, are new and unproven, or otherwise regarded as weak, or if a number of instances of incorrect pricing have been identified, the level of checking will need to be increased accordingly.

2.5 The trustee’s main emphasis, however, should be on ensuring that the Manager keeps the pricing systems under review, and on seeing evidence of the Manager's operation of his controls. Where pricing is delegated, the same principles apply.

PART 3
REGULATORY POSITION

In order to demonstrate that he has exercised due diligence in connection with pricing as required by Regulation 7.02.4, a Manager must be able to demonstrate that he has complied with the minimum control requirements set out in this guidance. Evidence of persistent or repetitive errors, or errors consistently in the Manager’s favour is likely to make this more difficult to achieve. Compensation may be required in a situation where the Manager would otherwise derive material benefit from the use of incorrect prices.

PART 4
GUIDANCE ON INCORRECT PRICING

4.1 Recording and reporting instances of incorrect pricing

(a) A Manager should record each instance where the fourth significant figure of a unit price is incorrect, and, as soon as the error is discovered, report the fact to the trustee, together with details of the action taken, or to be taken, to avoid repetition. A trustee should report material instances of incorrect pricing to IMRO forthwith. Materiality should be determined by taking into account a number of factors, including whether a Manager has followed the pricing controls set out above. The significance of any breakdown in management controls or other checking procedures should also be taken into account. The significance of any failure of systems should be considered. This may include situations where inadequate back-up arrangements exist. The duration of an error should also be taken into account; the longer an error persists, the more likely that it will have a material effect on a price. The level of compensation paid to unitholders of a trust, and a Manager’s ability (or otherwise) to meet claims for compensation, may also be relevant.

(b) A trustee should also make a return to IMRO on a quarterly basis which summarises, by Manager, the number of instances of incorrect pricing during a particular period. This should include the number of errors which were greater than 0.5% of the price of a unit and the number of errors which were less than 0.5% of the price of a unit where the trustee did not consider a Manager’s controls to be adequate.

4.2 Prices found to be incorrect by less than 0.5%

(a) Where the dealing price of any unit is found to be incorrect by less than 0.5% of the price of that unit, compensation of unitholders will not normally be required, unless the trustee decides otherwise.

(b) Where a creation or cancellation has taken place at a price which is incorrect by less than 0.5% of the price of a unit, compensation to or from the fund will not normally be required, unless the trustee decides otherwise.

4.3 Prices found to be incorrect by 0.5% or more
Where the dealing price of any unit is found to be incorrect by 0.5% or more of the price of that unit, compensation to unitholders will normally be required. If, exceptionally, the trustee considers that compensation is inappropriate, he must report the matter to IMRO, together with his recommendation and justification.

Where a creation or cancellation has taken place at a price which is incorrect by 0.5% or more of the price of a unit, the trustee will normally require the transaction to be corrected and money to be paid into or out of the fund.

Where the factor leading to an incorrect price continues in existence over a period of time, compensation will normally be required only on days where the price is incorrect by 0.5% or more of the price of a unit.

Where there is more than one factor at any one time which causes an incorrect price to be calculated, compensation will normally be required whenever, and so long as, the combined effect on any one day reaches 0.5% of the price of a unit.

4.4 Generally

(a) In all cases where compensation is otherwise required, amounts due to reimburse unitholders for individual sums under Â£10 will not normally need to be paid, although Manager's are free to pay such smaller amounts, or to make such smaller amounts up to a higher figure (such as the Â£10 minimum).

(b) It may be helpful to set out all the different circumstances where incorrect pricing can occur, and the effect of this guidance on each. The chart below shows each of these circumstances, and the succeeding paragraphs set out the procedure in each of the circumstances. The word normally is used throughout this section to denote unless the trustee directs otherwise. Notwithstanding the paragraphs below, the trustee may agree to a payment from the fund following an instance of incorrect pricing, if he deems it appropriate.

Compensation Chart

4.5 Dealings between fund and Manager whether or not units are issued to or repurchased from unitholders

A Fund gains vis-a-vis the Manager. (Creation at too high or cancellation at too low a price) Incorrect price less than 0.5% - normally no action. Incorrect price by 0.5% or more - trustee will normally compensate the Manager from the fund.

B Fund loses vis-a-vis the Manager. (Creation at too low or cancellation at too high a price) Incorrect price by less than 0.5% - normally no action. Incorrect price by 0.5% or more - trustee will normally direct Manager to compensate the fund.

4.6 Dealings between unitholders and the Manager whether or not units are created or cancelled

C Incoming unitholders gain vis-a-vis the Manager. (New unitholders buy units at too low a price) Incorrect price by less than 0.5% - no action. Incorrect price by 0.5% or more - see paragraph 4.7.

D Incoming unitholders lose vis-a-vis the Manager. (New unitholders buy units at too high a price) Incorrect price by less than 0.5% - normally no action. Incorrect price by 0.5% or more - Manager will normally compensate incoming unitholders.

E Outgoing unitholders gain vis-a-vis the Manager. (Outgoing unitholders sell at too high a price) Incorrect price by less than 0.5% - no action. Incorrect price by 0.5% or more - see paragraph 4.7.

F Outgoing unitholders lose vis-a-vis the Manager. (Outgoing unitholders sell at too low a price) Incorrect price by less than 0.5% - normally no action. Incorrect price of 0.5% or more - Manager will normally compensate outgoing unitholders.

4.7 Unitholders who gain vis-a-vis the Manager

It may not be practical or even, in some cases, legally permissible for the Manager to seek to recover money from unitholders, where they have benefited from an incorrect price. In such cases the Manager will usually wish to consider his legal position, as well as the commercial implications, in deciding whether to seek to make such recovery.

APPENDIX 7.6(1)(b) CORRECTION OF UNIT TRUST BOX MANAGEMENT ERRORS

3.2.97;RN34
1 Relevant Sections of the Regulations

When complying with Section B of Part 4 of the Regulated Schemes Regulations ("the Regulations"), dealing with the creation and cancellation of units, Managers and trustees should observe the standards of conduct set out in paragraph 4, subject to paragraphs 2 and 3 below.

2 Guidance on Controls by Managers

Paragraph 4(b) below explains how box management errors can be corrected in certain circumstances. It applies only where the Manager can demonstrate that he has an effective control procedure over box management, including all the areas which affect the figures which are included in the box management calculations. The guidance will only apply where the errors are on an isolated nature. The responsibility is on the Manager to demonstrate effective controls. Evidence of persistent or repetitive errors, and in particular any evidence of a pattern of errors working in the Manager’s favour, will make this more difficult.

3 Guidance on Controls by Trustees

The trustee has a duty under the Regulations to ensure that the Manager is operating the fund in accordance with the Regulations. The trustee should therefore be forming a regular assessment of the Manager’s box management procedures and supporting system.

4 Guidance on Correction of Box Management Errors

(a) (i) A Manager should record each error which is made in the calculation of the Manager’s box which results in a breach of Section B of Part 4 of the Regulations (i.e. a negative box), and, as soon as the error is discovered, report the fact to the trustee together with details of the action taken, or to be taken, to avoid repetition.

(ii) A trustee should report all material box management errors to IMRO forthwith. Materiality should be determined by taking into account a number of factors, including whether a Manager has sufficient controls in place. The significance of any breakdown in management controls or other checking procedures should also be taken into account. The significance of any failure of systems should be considered. This may include situations where inadequate back-up arrangements exist. The duration of an error should also be taken into account. The level of compensation paid to a trust or to its unitholders, and a Manager’s ability (or otherwise) to meet claims for compensation in full may also be relevant.

(iii) A trustee should also make a return to IMRO on a quarterly basis which summarises, by Manager, the number of box management errors during a particular period where a trustee does not consider the breach to have been an isolated error, whether or not the errors result in a negative box.

(iv) Paragraph 4(b) explains the circumstances in which an isolated error or errors may be corrected whether or not a breach has occurred. However, in many cases paragraph 4(b) will not apply, either, for example, because there are persistent errors, or an individual error has been discovered too late. In these circumstances, paragraph 4(d) to (h) set out the procedure to be followed. All errors should be corrected as soon as possible, as set out in the following paragraphs of the guidance.

Procedure when an isolated error may be corrected

(b) Where an error is discovered the Manager may (subject to paragraph 2 above) with the trustee’s agreement, correct the original creation or cancellation instructions, provided that the corrected amount can be calculated, by the end of the next business day following the relevant valuation point. Exceptionally, correction may be made later with the trustee’s agreement, within the period prescribed in Regulations 4.08.4 and 4.10.6 for the payment of creation or cancellation monies to or from the fund, and then dealt with correctly in accordance with those Regulations.

(c) Where the error does not qualify for correction under paragraph 4(b) above (for instance, if it is discovered too late or the trustee is not satisfied about the effectiveness of the Manager’s systems) the above paragraph does not apply, and the procedure is set out below.

Procedure when an error must be rectified with compensation where appropriate

(d) Where an error does not qualify as an isolated error to corrected under paragraph 4(b) above, the following procedure will apply. If the error has resulted in a larger positive box, no compensation is required as no breach has occurred. If the error has resulted in a negative box, the breach must be recorded, and notified to the trustee, who will notify IMRO.

Error results from an under-creation

(e) Where a negative box results from an under-creation, sufficient units to correct the negative box must immediately be created, unless this requirement has already been satisfied by subsequent creations or repurchases subsequent to the under-creation. If the price has risen no compensation is required. If the price has fallen, the Manager must compensate the fund for the difference in creation price between the valuation point at which the creation should have been made and the valuation point when the undercreated position was extinguished.
Error results from an over-cancellation and the price has risen
(f) Where the error results from an over-cancellation, and the price has risen, the error will be automatically corrected with no further penalty, since, when the error is discovered, the Manager will either create units, or may cancel a lower number of units, or cover the error by repurchases, all at a higher price.

Error results from an over-cancellation and the price has fallen
(g) Where the price has fallen, the Manager is required to rectify the breach immediately by creating units, if it has not already been rectified by a subsequent creation, or covered by subsequent repurchases. The Manager should compensate the fund for the difference between the cancellation price when the over-cancellation was made and the cancellation price when it was rectified, irrespective of whether corrected by creation, lower subsequent cancellation, or repurchases.

(h) The chart overleaf sets out the action required under paragraph 4(f) when the price has moved higher and under paragraph 4(g) when it has moved lower.

5 De Minimis Provision on Late Creation Settlement

Where interest due on an isolated instance of a late creation settlement amounts to a figure which is lower than Â£25, this may be waived, if in the trustee's opinion there will be no material effect on the fund, and the trustee is satisfied with the Manager's system of controls.

APPENDIX 7.6(1)(c) VALUATION AND PRICING OF UK OPEN-ENDED INVESTMENT COMPANIES

3.2.97;RN34

PART 1
INTRODUCTION

1.1 This guidance relates to Regulations 6.01.10 and 6.02.3 of the Open-Ended Investment Companies Regulations, ("the Regulations"). Under these regulations, an Authorised Corporate Director, ("an ACD") must take all reasonable steps, and exercise due diligence, to ensure that the shares in the company are priced in accordance with the provisions of Part 4 of the Regulations. An ACD must also value the property of a UK Open-ended Investment Company ("and OEIC") in accordance with the provisions of its instrument of incorporation.

1.2 Under Regulations 6.01.9 and 6.02.3 an ACD must take action forthwith to rectify any breach of Part 4. Where the breach relates to the incorrect pricing of shares, unless the Depositary directs otherwise, rectification shall extend to the reimbursement or payment of money by the ACD to shareholders, former shareholders or to the company. The Regulations state that a Depositary may direct that rectification need not extend to reimbursement where it appears to the Depositary that the incorrect pricing is of minimal significance. This guidance indicates that this would only be appropriate where an ACD has adequate controls in place. The provisions apply both to dealings with the ACD when acting as principal as well as dealings with the ACD when it is acting for the company.

1.3 Part 4 of the Regulations requires the price of a share of any class to be calculated by valuing the scheme property attributable to shares of that class and dividing that value by the number of shares of the class in issue. All the scheme property must be valued at each valuation point and any part of the scheme property which is not an Investment must be valued at fair value. IMRO expects an ACD to agree it methodology for valuing the scheme property with the Depositary and that the methodology in place is applied consistently.

1.4 This guidance sets out minimum standards of control in relation to the valuation of the scheme property to which an ACD and a Depositary should have regard in determining whether they have met their obligations under the Regulations.

1.5 Where instances of incorrect pricing occur, the de minimis provisions set out in Part 4 below will apply only where an ACD and a Depositary is able to meet the standards set out in Parts 2 and 3. Evidence of persistent or repetitive errors, or errors consistently in an ACD's favour, is likely to make it more difficult for an ACD to demonstrate that he is able to do so.

PART 2
PRICING CONTROLS BY ACDs

2.1 The following paragraphs set out the standards which, as a minimum, IMRO considers that an ACD should meet when complying with its obligations under Regulation 6.02.3.c.

2.2 Share prices and currency rates used should be up to date and from a reputable source. The mere use of a source for prices and rates does not amount to delegation under Regulation 6.10.6 Although it should not be necessary to carry out significant substantive checking, the reliability of the source of prices and rates should be kept under regular review, and
doubtful prices or rates followed up.

2.3 The use of a third party to carry out the pricing function does amount to delegation and, if the pricing agent is an associate of the ACD, of any directors of the company or of the Depositary, an ACD still retains responsibility under Regulation 6.10.6. If the pricing agent is not such an associate, the ACD still retains certain responsibilities under Regulation 6.10.8, and should ensure that the pricing agent contracts to provide the service on a basis which takes account of an ACD’s responsibilities to ensure an OEIC is priced in accordance with the Regulations.

2.4 Where the pricing function is delegated in this way, an ACD will still need to satisfy himself that the pricing agent remains competent to carry out the function, and that he has taken reasonable care to ensure that the pricing agent has carried out his duties in a competent manner (as required by Regulation 6.10.8). An ACD should seek assurance that the delegate’s system is robust and will produce accurate results. An ACD should review the outputs from the system at least annually, and on any significant system change. In addition, if the pricing agent is also responsible for calculation dealing prices of shares, an ACD should ensure that this system is reviewed to his satisfaction at least annually.

2.5 Unless the valuation and record keeping systems are integrated, the valuation output should be agreed with an ACD’s records of a fund at each valuation point. In addition, an ACD’s records, including debtors and creditors, should be agreed with a Depositary’s records of stocks and both capital and income cash at least monthly, with reconciling items followed up promptly, and debtors reviewed for recoverability.

2.6 Systems should be in place whereby all transactions are confirmed in writing or by electronic means to an ACD or to a pricing agent as quickly as possible, by fax or telex if necessary. It is desirable that all deals to which the fund is committed, which have been notified at most one hour before a valuation, are included in that valuation, at estimated prices if necessary. Unless, however, there is likely to be significant movement in a price of a share, it is more important that an accurate cut-off procedure is in place to ensure that omissions or duplications do not take place, than it is to ensure that estimates are included in a valuation.

2.7 Where prices are obtained otherwise than from the main pricing source (e.g. unquoted, suspended, or illiquid stocks) an ACD should maintain a record of the source and basis for the value placed on the investment. These should be regularly reviewed.

2.8 A system should be in place to ensure that Investment and Borrowing Powers Regulations which are contained in Part 5 of the Regulations are not breached, and that if breaches occur they are identified and rectified in accordance with Regulation 6.09.

2.9 A system should be in place to ensure that dividends are accounted for as soon as stocks are quoted ex-dividend, unless, as with some foreign stocks, it is prudent to account for them only on receipt. Fixed interest dividends and interest should be accrued at each point unless the level of materiality makes a longer interval appropriate. Similar considerations apply to the expenses of an OEIC.

2.10 The full tax position should be reviewed at least quarterly, including the basis for the current tax charge, the assumptions being used, and the tax rate applicable. Considerations should also be given to the ACT recovery position, adjustments to previous tax computations, and withholding tax recoveries. Adjustments should be made for substantive changes (e.g. alterations to the tax profile or likely tax charge) when they occur.

2.11 An ACD should ensure periodically that any charge which is levied on the investor for dilution has been calculated in accordance with the methodology which has been disclosed in an OEIC’s prospectus.

2.12 An ACD should fix a percentage or absolute limit for certain key elements of the valuation, such that any movement outside these limits is investigated. The investigation and its outcome should be in writing and evidenced by an appropriate signature. These key elements could, where relevant, include the movement of the overall price of the fund against relevant markets, the movement of the prices and values of individual stocks, changes in currency rates, and accrual figures for income, expenses, and tax. In addition, prices which appear not to have changed after a fixed period of time should be investigated, since this may be the result of a price movement having been missed.

2.13 Cash should be reconciled to the bank account regularly, with outstanding items promptly followed up, and a full reconciliation sent to the Depositary monthly.

2.14 Controls should be in place to ensure that the correct number of shares in issue is recorded at each valuation point. This should be reconciled with the shareholder register at least monthly.

2.15 A copy of the valuation should be sent to the fund manager at least weekly. He should specifically check that the correct securities are recorded.
PART 3
PRICING CHECKS BY DEPOSITARIES

3.1 A Depositary has a duty to ensure that an ACD’s pricing methodology and operation is properly controlled. Its main emphasis should be to ensure that an ACD keeps its controls and systems for pricing under review and to obtain evidence from an ACD’s systems that share prices are calculated correctly. This also applies where an ACD has delegated some or all of its pricing functions to a third party. The following paragraphs set out the minimum checks which IMRO expects a Depositary to carry out to be satisfied with an ACD’s pricing methodology and operation, to ensure that the likelihood of incorrect prices will be minimised.

3.2 A Depositary should carry out a thorough review of an ACD’s overall system for pricing. This should include an analysis of the controls in place to determine the extent to which reliance can be placed on them. This review should be carried out at the start of a Depositary’s appointment and also when major changes are made by an ACD to its system. On an ongoing basis, the systems should be kept under review to ensure that a series of minor changes do not, over a period of time, have a significant effect on the integrity of the systems.

3.3 A Depositary should conduct a review at least annually to confirm that an ACD’s controls and systems are satisfactory. This will be more frequent where a Depositary knows or suspects that an ACD’s controls and systems are weak and unsatisfactory. A Depositary should ensure that any issues which are identified are properly followed up and resolved. Additionally, a Depositary should carry out a review of the valuation of the property of each OEIC for which it is responsible, at least annually, which verifies, on a sample basis if necessary, the assets, liabilities, accruals, shares in issue, and any other relevant matters, for example an accumulation factor or a currency conversion factor.

3.4 Where an ACD’s systems are manual, or have been installed or amended recently and are therefore unproven, the level of checking will need to be increased accordingly. This will also be necessary where a number of instances of incorrect pricing have previously been identified.

PART 4
INCORRECT PRICING

4.1 An ACD should record each instance where the fourth significant figure of a share price is incorrect, and, as soon as the error is discovered, report the fact to the Depositary together with details of the action taken, or to be taken, to avoid repetition.

Recording and reporting instances of incorrect pricing

4.2 A Depositary should report material instances of incorrect pricing to IMRO forthwith. Materiality should be determined by taking into account a number of factors, including whether an ACD has followed the pricing controls as set out in Part 2 above. The significance of any breakdown in management controls or other checking procedures should also be taken into account. The significance of any failure of systems should be considered. This may include situations where inadequate back-up arrangements exist. The duration of an error should also be taken into account; the longer an error persists, the more likely that it will have a material effect on a price. The level of compensation paid to shareholders of an OEIC, and an ACD’s ability (or otherwise) to meet claims for compensation in full, may also be relevant.

4.3 Paragraph 4.8 below states that a Depositary should also report to IMRO forthwith any instance of incorrect pricing where the error is greater than 0.5% of the price of a share, and where a Depositary believes that compensation is inappropriate and should not be paid by an ACD.

4.4 A Depositary should also make a return to IMRO on a quarterly basis which summarises, by ACD, the number of instances of incorrect pricing during a particular period. This should include the number of errors which were greater than 0.5% of the price of a share and the number of errors which were less than 0.5% of the price of a share where a Depositary did not consider an ACD’s controls to be adequate.

4.5 The paragraphs below cover action to be taken as regards compensation for incorrect pricing.

Prices found to be incorrect by less than 0.5%

4.6 Where the dealing price of any share of an OEIC is found to be incorrect by less than 0.5% of the price of a share of an OEIC, compensation to shareholders will not normally be required, unless the Depositary decides otherwise.

4.7 Where an issue or cancellation of shares has taken place at a price which is incorrect by less than 0.5% of the price of a share of an OEIC, compensation to or from the fund will not normally be required, unless the Depositary decides otherwise.

Prices found to be incorrect by 0.5% or more
4.8 Where the dealing price of any share of an OEIC is found to be incorrect by 0.5% or more of the price of a share of an OEIC, compensation to shareholders will normally be required. If, exceptionally, a Depositary considers that compensation is inappropriate, he must report the matter to IMRO, together with his recommendation and justification.

4.9 Where an issue or cancellation of shares has taken place at a price which is incorrect by 0.5% or more of the price of a share, a Depositary will normally require the transaction to be corrected and money to be paid into or out of the fund.

4.10 Where a single factor has caused an incorrect price and that factor continues to exist over a period of time, compensation will normally be required only on days where the price is incorrect by 0.5% or more of the price of a share.

4.11 Where more than one factor has caused an incorrect price, compensation will normally be required whenever, and so long as, the combined effect on any one day is an error which is greater than 0.5% of the price of a share.

Generally

4.12 In all cases where compensation is otherwise required, amounts due to be reimbursed to shareholders for individual sums under Â£10 will not normally need to be paid, although an ACD may pay such a sum, or may wish to make up smaller amounts to a higher figure (such as the Â£10 minimum).

4.13 It may be helpful to set out all the different circumstances where incorrect pricing can occur, and the effect of this guidance on each. The chart below shows each of these circumstances, and the succeeding paragraphs set out the procedure in each of the circumstances. The word normally is used throughout this section to denote unless the Depositary directs otherwise. Notwithstanding the paragraphs below, the Depositary may agree to a payment from an OEIC following an instance of incorrect pricing, if he deems it appropriate.

Compensation Chart

Dealings between a fund and an ACD (whether or not shares are sold to or redeemed from shareholders)

A Fund gains vis-a-vis an ACD

(Issue at too high or cancellation at too low a price)
Incorrect price by less than 0.5% - normally no action.
Incorrect price by 0.5% or more - a Depositary will normally compensate an ACD from the fund.

B Fund loses vis-a-vis an ACD

(Issue at too low or cancellation at too high a price)
Incorrect price by less than 0.5% - normally no action.
Incorrect price by 0.5% or more - a Depositary will normally direct an ACD to compensate the fund.

Dealings between shareholders and the ACD (whether or not shares are issued or cancelled)

C Incoming shareholders gain via-a-vis an ACD

(New shareholders buy shares at too low a price)
Incorrect price by less than 0.5% - no action.
Incorrect price by 0.5% or more - see paragraph 4.8.

D Incoming shareholders lose vis-a-vis an ACD

(New shareholders buy shares at too high a price)
Incorrect price by less than 0.5% - normally no action.
Incorrect price by 0.5% or more - an ACD will normally compensate incoming shareholders.

E Outgoing shareholders gain via-a-vis an ACD

(Outgoing shareholders sell at too high a price)
Incorrect price by less than 0.5% - no action.
Incorrect Price by 0.5% or more - see paragraph 4.8.

F Outgoing shareholders lose vis-a-vis an ACD

(Outgoing shareholders sell at too low a price)
Incorrect price by less than 0.5% - normally no action.
Incorrect price of 0.5% or more - ACD will normally compensate outgoing shareholders.

Shareholders who gain vis-avis the ACD

4.14 It may not be practicable or even, in some cases, legally permissible for the ACD to seek to recover money from shareholders, where they have benefited from an incorrect price. In such cases the ACD will usually wish to consider his legal position, as well as the commercial implications, in deciding whether to seek to make such recovery.
APPENDIX 7.6(1)(d) CORRECTION OF UK OPEN-ENDED INVESTMENT COMPANIES BOX MANAGEMENT ERRORS

3.2.97; RN34

PART 1
INTRODUCTION

1.1 This guidance relates to Regulation 4.06 of the Open-Ended Investment Companies Regulations ("the Regulations"). Under this regulation an Authorised Corporate Director ("an ACD") must avoid operating a negative box by arranging for the company to issue shares in a UK Open-ended Investment Company ("an OEIC ") in such number as will at least enable it to meet its obligation to sell shares at that valuation point.

1.2 Regulation 4.09 permits an ACD to modify the number of shares issued or cancelled provided the Depositary agrees. The Regulations require the Depositary to be satisfied that the purpose of the modification is to rectify a box management error, and that the error is an isolated one. This guidance sets out when an ACD may correct a box management error without the need for compensation. The provisions will typically apply where a larger than intended box or a negative box may have been created inadvertently, as a result of an isolated administrative error.

1.3 The guidance assumes that there is an appropriate control environment in place if an ACD is to rely on its provisions. The guidance therefore indicates the areas where an ACD and a Depositary are expected to operate controls to reduce the risk of box management errors occurring. It does not address in detail how these controls should operate in practice. That is for an ACD and a Depositary to determine.

PART 2
CONTROLS BY ACDs

2.1 Paragraphs 4.4 and 4.5 below explain how box management errors can be corrected in certain circumstances. It applies only where an ACD can demonstrate that it has effective controls in place over box management, including all the areas which affect the figures which are included in the box management calculations. The guidance will only apply where the errors are of an isolated nature. It is the responsibility of an ACD to demonstrate effective controls. Evidence of persistent or repetitive errors, and in particular any evidence of a pattern of errors working in an ACD's favour, will make this more difficult.

PART 3
CONTROLS BY DEPOSITARIES

3.1 A Depositary has a duty under the Regulations to ensure that an ACD is operating an OEIC in accordance with Part 4 of the Regulations. A Depositary should therefore be forming a regular assessment of the ACD's box management procedures and supporting systems.

PART 4
CORRECTION OF BOX MANAGEMENT ERRORS

Recording and reporting box management errors

4.1 An ACD should record all errors which are made in the calculation of an ACD’s box which result in a breach of Section B of Part 4 of the Regulations (i.e. a negative box), and, as soon as the error is discovered, report the fact to the Depositary, together with details of the action taken, or to be taken, to avoid repetition.

4.2 A Depositary should report material box management errors to IMRO forthwith. Materiality should be determined by taking into account a number of factors, including whether an ACD has sufficient controls in place. The significance of any breakdown in management controls or other checking procedures should also be taken into account. The significance of any failure of systems should be considered. This may include situations where inadequate back-up arrangements exist. The duration of an error should also be taken into account. The level of compensation paid to shareholders of an OEIC, and an ACD’s ability (or otherwise) to meet claims for compensation in full, may also be relevant.

4.3 A Depositary should also make a return to IMRO on a quarterly basis which summarises, by ACD, the number of box management errors during a particular period where a Depositary does not consider the breach to have been an isolated error, whether or not the error results in a negative box.

Procedure when an isolated error may be corrected

4.4 This section explains the circumstances in which an isolated error or errors maybe corrected, whether or not a breach has occurred. However, in many cases this paragraph will not apply, either, for example, because there have been persistent errors, or an individual error has been discovered too late. In these circumstances, paragraphs 4.7 to 4.11 below set out the procedures to be followed. All errors should be corrected as soon as possible, as set out in the following paragraphs.
4.5 Where an error is discovered, an ACD may (subject to paragraph 2.1 above), with the Depositary’s agreement, correct the original issue or cancellation records, provided that the corrected amount can be calculated by the end of the next business day following the relevant valuation point. Exceptionally, correction may be made later with the Depositary’s agreement, within the period prescribed in Regulations 4.05.2 and 4.07.4 for the payment of issue or cancellation monies to or from an OEIC and then dealt with correctly in accordance with those Regulations.

4.6 Where an error does not qualify for correction under paragraphs 4.4 and 4.5 above (for instance if it is discovered too late or the Depositary is not satisfied about the effectiveness of the ACD’s systems) the above paragraph does not apply, and the procedures to be followed are set out below.

Procedure when an error must be rectified with compensation where appropriate

4.7 Where an error does not qualify as an isolated error to be corrected under paragraphs 4.4 and 4.5 above, the following procedure will apply. If an error has resulted in a larger positive box, no compensation is required as no breach has occurred. If an error has resulted in a negative box, the breach must be recorded, and notified to the Depositary, who, if it is material, will notify IMRO.

Error results from an under-creation

4.8 Where a negative box results from an under-issue of shares, sufficient shares to correct the negative box must immediately be issued, unless this requirement has already been satisfied by subsequent issues or redemptions subsequent to the under-issue. If the price has risen, no compensation is required. If the price has fallen, an ACD must compensate the OEIC for the difference in price between the valuation point at which the issue should have been made and the valuation point when the under-issued position was extinguished.

Error results from an over-cancellation and the price has risen

4.9 Where an error results from an over-cancellation, and the price has risen, the error will be automatically corrected with no further penalty, since, when the error is discovered, an ACD will either issue shares, or may cancel a lower number of shares, or cover the error by redemptions, all at a higher price.

Error results from an over-cancellation and the price has fallen

4.10 Where the price has fallen an ACD is required to rectify the breach immediately by instructing the company to issue shares, if it has not already been rectified by a subsequent issue, or covered by subsequent repurchases. An ACD should compensate the OEIC for the difference between the cancellation price when the over-cancellation was made and the cancellation price when it was rectified, irrespective of whether corrected by issue, lower subsequent cancellation, or redemptions.

4.11 The chart overleaf sets out the action required under paragraph 4.9 when the price has moved higher and under paragraph 4.10 when it has moved lower.

APPENDIX 7.6(1)(e) VALUATION OF REGULATED COLLECTIVE INVESTMENT SCHEMES UNDER SETS

20.10.97; RN41

Valuation of Authorised Unit Trust Schemes under SETS

1.1 Table 4.2 of the SIB’s regulated Schemes Regulations requires an Authorised Unit Trust Manager to value an investment held as scheme property at the best available market dealing offer or bid price (depending on whether the property is being valued on a creation or cancellation basis) for a deal of standard size on the most appropriate market, after taking account of dealing costs. If no price exists, the Manager is required to use a reasonable estimate of a buying or selling price.

1.2 Under the Stock Exchange Automated Quotation (SEAQ) System, the best market dealing offer or bid price in a particular security is generally understood to be the ‘touch’ price. Under the Stock Exchange Electronic Trading Service (SETS), the London Stock Exchange publishes an ‘official best price’ for each security, derived from the best prices displayed on the order book; it also publishes a ‘last trade price’. The best bid price is the price of the highest buy order on the order book at any given time, and the best offer price is the price of the lowest sell order on the book. The last trade price for securities traded on SETS is published throughout the day. The ‘official closing price’ is based on the last automatically executed trade taken from the order book.

1.3 An Authorised Unit Trust Manager may wish to use the last trade price as the basis for valuing SETS securities held as part of the scheme property. The last trade price will be a precise figure, not an estimate, and there will be complete certainty that the security in question has traded at that price. Alternatively, a Manager may use the best bid and offer price displayed on the order book as the basis of valuation. Either method is acceptable,
provided that the Manager documents the choice of methodology and ensures that the procedures are applied consistently and fairly. The basis on which the scheme property is to be valued must be set out in the Scheme Particulars, as required by paragraph 10(b) of Schedule 2 of the Regulated Scheme Regulations.

1.4 Circumstances may arise where the chosen methodology may not provide a reliable basis for valuation. This could happen, for example, where there has been no recent trade in the security concerned or where no reliable price exists. In such cases, the Manager must exercise judgement to estimate a reasonable price at which the security could be bought or sold in the most appropriate market, and must document the reasons for his decision. Where the Manager imputes a 'spread' in order to arrive at an estimated buying or selling price − for example, in circumstances where there are no buy or sell orders on the order book − he must be able to justify any assumptions made.

Valuation of UK Open-ended Investment Companies under SETS

2.1 Regulation 4.21 of the SIB’s Open-ended Investment Companies (OEIC) Regulations requires the scheme property of an OEIC to be valued at the ‘mid-market price’ where different bid and offer prices are quoted for a security. The methodology for valuing scheme property must be set out in an OEIC’s Instrument of Incorporation. The Association of Unit Trusts and Investment Funds has developed a model Instrument of Incorporation which, inter alia, covers valuation of scheme property.

2.2 An OEIC’s Instrument of Incorporation must set out the valuation policy that will be adopted by the Authorised Corporate Director (ACD) where a single price for buying and selling a security is quoted; and also where separate buying and selling prices are quoted. In the context of SETS, The London Stock Exchange publishes an ‘official mid-market price’ for each security, calculated as the average of the best bid and best offer price, unweighted by deal size. Either the official mid-market price or the last trade price should provide an appropriate basis of valuation for OEICs. The ACD must, however, document the choice of methodology and ensure that the procedures are applied consistently and fairly. The basis on which the scheme property is to be valued must also be set out in an OEIC’s prospectus, as required by paragraph 17 of Schedule 1 of the OEIC Regulations.

2.3 Where there has been no recent trade in the security concerned, or no reliable price exists, an investment should be valued at a price which, in the opinion of the ACD, reflects a fair and reasonable price for that investment. In such cases, the ACD must document the reasons for his decision and should be prepared to justify any assumptions made.

SECTION 8 Promotion of BES Schemes

8.1 ADVERTISEMENTS FOR BES SCHEMES

8.1(1) Specific Investment Advertisements for BES Schemes

1.7.95;RN13

A Firm must not issue nor approve a Specific Investment Advertisement relating to a BES Scheme unless the scheme is either:

(a) a BES Fund the terms of which provide that not more than 27.5% of the subscriptions shall be invested in any one company; or

(b) a BES Managed Portfolio.

In judging whether such Investment Advertisements comply with Rules 1.1(1) and 1.3(1) of this Chapter, Firms should consider the standards set out below as well as those set out in the Advertising Code in Appendix 1.1(1) to this Chapter.

The use of words such as 'guaranteed', 'fixed', 'certain', 'assured', or any words having a cognate or similar meaning in relation to returns to be made on a BES investment (whether expressed as an annual yield or otherwise) should be avoided unless an arrangement exists whereby an investor has a right of action against an independent third party to recover any difference between the advertised return on the investment and any actual lower return. The essential terms of such arrangement (including the identity of the independent third party) should be set out in the document concerned; and none of the words referred to above should be included in the document unless the identity of the independent third party is disclosed alongside, or in close proximity to, the word concerned. Great care should be taken in the use of the word 'assured' when inviting investments for the purpose of funding the purchase of properties to be let on “assured tenancies” as detailed in the Housing Act 1988 and the Housing (Scotland) Act 1988. In such cases the word 'assured' should be avoided unless it is used as part of that definition.

Appropriate risk warnings as recommended in Appendix 1.1(1) should be legible and comprehensive and particular regard should be had to the size of print used (especially relative to the size of print used for any forecasts or illustrations which may have been
permitted by way of waiver of Rule 8.5(1) of Chapter II – see the formal guidance to that Rule. The warnings should be placed in an appropriately prominent place and should not be mixed with irrelevant material.

Note:
Rules 1.1(1) and (3) of this Chapter also apply to Investment Advertisements for BES Schemes and BES Shares.

8.2 DIRECT OFFER ADVERTISEMENTS FOR BES SCHEMES AND BES SHARES

8.2(1) Contents requirements in relation to BES Schemes

A Direct Offer Advertisement for a BES Scheme must comply with Rule 8.1(1) and must contain the following:

Firms should refer to the formal guidance accompanying Rule 8.1(1).

Note:
Rule 1.3(1) also applies to Direct Offer Advertisements of BES Schemes and BES Shares.

(a) the BES Scheme Particulars set out in Table 8.2(1);

(b) a copy of the Prospectus or, if no Prospectus is required by Section 56 of the Companies Act 1985, a Statement of Prescribed Information relating to each company in which, at the time the advertisement is issued, the BES Scheme Manager has to his knowledge a Material Interest and intends to acquire interests on behalf of the Scheme; and

(c) a prominent statement that applications may only be made and accepted subject to the terms and conditions of the BES Scheme Particulars.

8.2(2) Contents requirements in relation to BES Shares

A Direct Offer Advertisement which relates to a Private Offer of BES Shares must include a Statement of Prescribed Information.

Firms should refer to the formal guidance accompanying Rule 8.1(1).

8.3 CUSTOMER AGREEMENTS

8.3(1) Customer Agreements: acceptance of terms

(a) Before a Firm provides Investment Services to a Private Customer in its capacity as the manager of a BES Scheme, it must comply with Rules 2.2(2), (4) and (5), and (if the Scheme involves the discretionary management of the Customer’s assets) Rule 2.2(3) of this Chapter.

(b) Where a Firm or any of its agents advises a Private Customer to subscribe to a BES Scheme of which it is the manager, it must comply with Rule 2.4(5) of this Chapter.

8.4 CREDIT

8.4(1) Credit must not be offered

A Firm must not lend money nor extend credit to assist any person to subscribe to a BES Scheme or for BES Shares nor arrange for anyone else to do so unless the person concerned has sought the facility without solicitation.

This prohibition includes any facility which may be available up to one year after the date of subscription. However, it would not prohibit a third party (such as a bank) from lending money or extending credit for a purpose which is not limited to a particular BES investment.

8.5 FORECASTS OF REALISABLE VALUE

8.5(1) Forecasts and illustrations
A Firm must not issue, approve for issue, reissue or distribute any forecast or illustration of the possible investment return on, or realisable value of, a direct or indirect investment in BES Shares on any particular assumption.

In judging whether any statement amounts to a forecast or illustration for the purposes of this Rule, Firms are recommended so to regard any statement expressed as an annual percentage yield or a cash uplift on an original investment, as well as phrases such as 'targeting for an uplift' or 'aiming for a return'.

Applications to IMRO for a waiver of this Rule may be considered on a case-by-case basis but are normally liable to be successful only if the forecast or illustration forms part of a prospectus or scheme memorandum, which document should specifically include clear risk warnings satisfactory to IMRO. The figures included in any forecast or illustration should not be based on assumptions which are unreasonable or unduly optimistic.

**TABLE**

**Table 8.2(1)**

Table 8.2(1) Contents of BES Scheme Particulars

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The required contents for BES Scheme Particulars are as follows:

1. the following statements, to be included with particular prominence:
   
   (a) that investment unquoted securities carries higher risks than investment in quoted securities;

   (b) that investments in unquoted securities may be difficult to realise, that there can be no certainty that Market Makers will be prepared to deal in them and, where the investment objectives of the BES Scheme include investment in private companies, that restrictions may apply to the transfer of securities in such companies;

   (c) that proper information for determining the current value of Investments may not be available;

   (d) that the applicant is advised not to subscribe to the BES Scheme unless he has taken appropriate independent advice;

   (e) that the BES Scheme Manager is regulated in the conduct of its Investment Business by IMRO;

2. the following statement, duly completed:

   "The [Firm] [fund manager] [BES Scheme Manager] [and its directors] [has] [have] taken all reasonable care to ensure that all facts stated in this document are true and accurate in all material respects and there are no other material facts the omission of which would make misleading any statement herein whether of fact or opinion. The [Firm] [fund manager] [BES Scheme Manager] [and its directors] accept[s] responsibility accordingly."

3. the name and business address of:

   (a) the BES Scheme Manager;

   (b) the promoter of the BES Scheme (if any);

   (c) every person acting in a professional capacity in relation to the BES Scheme; and

   (d) every person likely to take part in any decision or recommendation relating to investment of monies subscribed to the BES Scheme;

4. the opening and closing dates for receipt of BES Subscriptions;

5. the maximum and minimum sizes, if any, proposed for the BES Scheme;

6. the maximum and minimum permitted individual subscriptions to the BES Scheme;

7. the arrangements for the holding of BES Subscriptions pending investment;
the arrangements for the return of BES Subscriptions should the BES Scheme be over-subscribed or the monies not be accepted for other reasons;

the arrangements for the return of BES Subscriptions remaining uninvested at the time when the final investment of the BES Scheme has been made or the final date for investment has passed;

any arrangements by virtue of which any preferential treatment will or may be given in relation to subscription to the BES Scheme to particular persons or classes of persons subscribing to the BES Scheme;

the circumstances in which persons or particular classes of person are excluded from participation in the BES Scheme or in any particular investment of BES Scheme monies;

the manner in which shares in Companies in which BES monies are to be invested are to be held on behalf of participants in the BES Scheme and the manner in which, according to their BES Subscriptions, interests in such shares are to be allocated to each participant;

any arrangements for registering shares in the names of participants in the BES Scheme at or after the end of the period during which shares must be held in order to obtain tax relief;

any arrangements for the payment of dividends, if any, to participants in the BES Scheme;

the circumstances in which a person’s participation in the BES Scheme may be terminated;

any arrangements for dealing with BES Scheme monies which become available as a result of a sale of BES Scheme Investments by the BES Scheme Manager;

the BES Scheme Manager’s powers and discretion in relation to the BES Scheme;

the following information concerning charges and costs (which must be stated together in a part of the document dealing solely with that information):

(a) the amount or rate of the BES Scheme Manager’s remuneration currently charged, whether that may be varied in any way in the future and, if so, the maximum to which it may be increased; and

(b) the same information but in relation to any other charges or costs made or arising in connection with the BES Scheme;

the commission rate payable to any intermediary in return for his introducing participants to the BES Scheme;

whether the BES Scheme Manager remains free to subscribe for shares, or to hold options to do so, in Companies in which the BES Scheme funds are invested and, if so, an indication of the price or the formula by which a price is determined at which it may subscribe and the maximum proportion of the ordinary share capital of those Companies for which it may subscribe or which may be the subject of options in its favour or both;

whether the BES Scheme Manager proposes to establish another BES Scheme and, if so, whether or not arrangements exist to ensure that the BES Manager does not discriminate between one BES Scheme and another and, if so, what they are;

a summary of the fiscal provisions concerning the BES;

a description either of the arrangements which exist:

(a) for securing that any person who knowingly has a Material Interest in any decision or recommendation concerning the investment of BES Subscriptions which is not subject to Independent Approval is excluded from participation in the making of that decision or recommendation; and

(b) for securing Independent Approval of decisions and recommendations concerning the investment of BES Subscriptions which may be made by persons who have a Material Interest in them;
or a statement that no such arrangement exist;

(24) where the arrangements described in accordance with paragraph (23) do not cover any of the following interests:

(a) an interest of the BES Scheme Manager or of its Associate arising by way of remuneration in connection with the management or operation of the BES Scheme or any other BES Scheme;

(b) an interest arising from investment of subscriptions of the BES Scheme or of any other BES Scheme managed by the BES Scheme Manager or its Associate;

(c) an interest of an authorised institution within the meaning of the Banking Act 1987 resulting from a loan made by such an institution;

(d) an interest arising from the formation by the BES Scheme Manager or its Associate of a Company with a view to an interest in that Company being acquired on behalf of BES Schemes of which it or its Associate is the BES Scheme Manager;

a statement that investment may be made despite the existence of such an interest;

(25) particulars of any Material Interest or duty of the BES Scheme Manager which would conflict with the interests of participants in the BES Scheme or its duty to those participants;

(26) a statement at the head of any summary contained in the BES Scheme Particulars that the summary must be read subject to the full terms and conditions of the BES Scheme as set out in the BES Scheme Particulars;

(27) any arrangements to enable participants in the BES Scheme to notify the BES Scheme Manager of Companies with which they are connected within the meaning of Section 291 of the Income and Corporation Taxes Act 1988;

(28) the investment policies and objectives of the BES Scheme;

(29) what periodic reports will be made to participants and how frequently those reports will be made in accordance with the Rules.

SECTION 9 Corporate Finance Business

9.1(1) Compliance with SFA rules

1.4.92; RS4

In undertaking any Corporate Finance Business a Firm must comply with the SFA rules applicable to that business as if those rules applied to the Firm; the Rules are disapplied, therefore, to the extent that the SFA rules apply to Corporate Finance Business. Failure to observe the relevant SFA rules will be treated as a breach of the Rules by the Firm.

NOTE

Corporate Finance Business includes any activity constituting Corporate Finance Business ancillary to Venture Capital Business.

SECTION 10 Management of Occupational Pension Scheme Assets

10.1 APPLICATION OF THE RULES TO OPS FIRMS

10.1(1) Permitted Business of an OPS Firm

1.3.93; RS6

An OPS Firm must ensure at all times that its Permitted Business is not undertaken with a view to profit.

10.1(2) Application of Rules

1.3.93; RS6

(a) In undertaking its Permitted Business an OPS Firm is subject to the Rules, except to the extent that they are expressly disapplied, replaced or extended under the provisions of this Section. The Rules in this Section apply only to an OPS Firm and shall be construed (unless otherwise expressly provided in this Section) as if:
(i) references to Customer were to the OPS in respect of which the OPS Firm is acting or intends to act and with or for the benefit of which the relevant activity is or is to be carried on; and

(ii) for all purposes of the Rules the OPS were a Private Customer.

The terms Execution-only Customer, Discretionary Customer, Current Customer Order, Customer Transaction, Customer Title Documents and Customers' Asset Rules shall be construed accordingly.

(b) Where an OPS Firm is required by any of the Rules in this Section to provide information to, or obtain consent from, a Customer, the OPS Firm must ensure that the information is provided to, or consent is obtained from, each of the trustees of the OPS in respect of which the OPS Firm is acting, unless the context otherwise requires.

10.2 CONDUCT OF BUSINESS

10.2.1 Disapplication of certain Conduct of Business Rules

Rules 1.1(1) to 9.1(1) and 11.1(1) to 11.8(1) of Chapter II do not apply to an OPS Firm except as provided in Rule 10.2(2).

10.2.2 Application of certain Conduct of Business Rules to OPS Firms

Subject to Rules 10.1(1) and (2) the following Rules in Chapter II apply to:

(a) all OPS Firms

1.1(1) to (4) (Advertising: Rules of general application)
1.2(1) (Issued or approval of advertisements for an Overseas Person)
1.3(1) (Direct Offer Advertisements)
1.4(1) and (2) (Disapplication of certain advertising Rules)
1.5(1) and (2) (Cold Calling)
1.6(1) (Inducements)
1.7(1) to (6) (Soft Commission)
1.8(1) (Overseas business for UK Private Customers)
1.9(1) (Business conducted from an overseas place of business with Overseas Customers)
2.5(1) (Exclusion of liability under the Act or Rules)
3.2(1) and (2) (Understanding of risk)
3.3(1) (Material interests)
3.4(1) and (2) (Reasonable charges)
3.5(1) (Information about the Firm’s remuneration)
3.6(1) (Customer Order Priority)
3.7(1) (Timely Execution)
3.9(1) to (6) (Timely Allocation)
3.10(1) to (3) (Fair Allocation)
3.11(1) (Churning and Switching)
3.12(1) to (3) (Dealing ahead of published research or analysis)
3.13(1) (Contingent Liability Transactions)
3.14(1) and (2) (Prohibition on Insider Dealing)
4.1(1) (Fair and clear communications)
4.2(1) (Information about the Firm)
4.3(5) (Reporting transactions)
4.4(1) to (3) (Contract Notes)
4.5(1) to (6) (Periodic Information)
5.1(1) to (9) (Safeguarding and administration of Customers’ assets)
6.1(1) to 6.7(3) (Advising on Packaged Products)
9.1(1) (Corporate Finance Business);
(b) OPS Firms which are not trustees

2.2(1) to (6) (Reaching agreement with Private Customers)
2.4(1), (3), (4), and (7) (Contents of Customer Documents)
5.2(1) to (4) (Duty to obey Client Money Regulations);
(c) OPS Firms which are trustees

11.5(2) to (14) (Trust money), as if references to a Trustee Firm were to an OPS Firm which is a trustee.

10.2.3 Conduct of Business: replacement of Suitability Rule
1.3.93; RS6

Rules 3.1(1) to (3) of this Chapter shall be replaced by the following:

(a) In recommending any transaction to or deciding to effect any transaction for an Occupational Pension Scheme, an OPS Firm must have reasonable grounds for believing that such transaction is suitable for the purposes of that scheme having regard to the powers and provisions of the instrument or agreement constituting the scheme.

Note: Section 36(3) of the Pensions Act 1995 requires OPS trustees to obtain and consider advice from a suitably experienced person (as defined in Section 36(6)) as to whether a proposed investment meets the criteria in Sections 36(2) and 36(5). If discretionary management of Investments has been made delegated to an Authorised Person there is no requirement for such advice. OPS trustees may themselves manage the schemes' investments if they are suitably experienced within Section 36(6) without needing to take external advice, but Section 36(3) requires them to document the reasons for their decision to invest.

(b) An OPS Firm shall not be treated as having breached this Rule if at the time of making such recommendation or decision it does not know and ought not to have known of any facts which would otherwise have caused that recommendation or decision to be unsuitable.

Note: Firms acting as the trustee or manager of the investments of an OPS are required by Sections 36(2) and 36(5) of the Pensions Act 1995 to have regard to the diversification and suitability of the schemes' investments with a view to giving effect to the scheme's statement of investment principles.

Section 35 of that Act requires OPS trustees to maintain and keep under review a statement of investment principles which sets out their policy on matters including kinds of investments to be held, asset allocation, risk and expected return, and realisation of investments.

10.2(4) Conduct of Business: replacement of Best Execution Rule

Rule 3.8(1) of this Chapter shall be replaced by the following:

In deciding to effect any transaction for an Occupational Pension Scheme, an OPS Firm must take reasonable steps, having regard to the powers and provisions of the instrument or agreement constituting the scheme, to ensure that the counterparty is reliable and that the terms and circumstances of the transaction are the best available on the relevant market at the time for transactions of the same kind and size with a reliable counterparty, and in so considering the terms and circumstances the OPS Firm shall have regard to:

(a) the price to be paid or received;

(b) all charges to which the scheme would become liable; and

(c) any other terms of the transaction, including any advantage likely to be gained by the scheme either directly or indirectly as a result of the transaction or of other transactions likely to be effected by the OPS Firm in the course of its Permitted Business.

1.3.93; RS6

This Rule enables an OPS Firm to consider Best Execution not solely in relation to one transaction. Over a period or series of transactions, the OPS Firm may in an appropriate case make a decision for an Occupational Pension Scheme in respect of one transaction which, take in isolation, may cause the scheme to be disadvantaged, provided the scheme can expect compensating advantages in other transactions which should provide Best Execution for that scheme over the period or series of transactions concerned. In such circumstances, however, the OPS Firm would need good grounds for foreseeing such compensating advantages and the decision would need to be taken, and justified, in respect of each separate transaction as it arose.

In executing any transaction on behalf of an Occupational Pension Scheme, an OPS Firm should, in considering the items described in sub-paragraphs (a) and (b) of the Rule, take into account all Mark-ups, Mark-downs, commissions, fees and charges payable to or receivable by the other party with whom the OPS Firm is executing the transaction on behalf of the scheme.

10.3 COMPLIANCE, REPORTING, RECORDS AND COMPLAINTS

10.3(1) Application of Rules in Chapter IV

1.3.93; RS6

Subject to Rules 10.1(1) and (2), the Rules in Chapter IV apply to OPS Firms.
10.3(2) Notification to IMRO: addition of certain requirements

6.10.97; RN39

For the purposes of Rules 2.2(1) to (3) of Chapter IV, Part III of Table 2.2(1) shall apply with the following sub-paragraphs added:

(z) the bringing of any action against the OPS Firm for breach of trust;
(aa) the making of an order by a court removing the OPS Firm as a trustee;

10.4 FINANCIAL RULES

10.4(1) Application of Rules in Chapter V

Subject to Rules 10.1(1) and (2), the Rules in Chapter V (Financial Rules) apply to OPS Firms as provided in Rule 1.1(1) of that Chapter.

1.3.93; RS6

10.4(2) Submission of Audited Accounts

1.3.93; RS6

An OPS Firm must:

(a) where appropriate, submit to IMRO the Annual Accounts of the OPS Firm, within four months after the Accounting Reference Date;

(b) submit or procure the submission to IMRO of Annual Accounts of each OPS in respect of which the OPS Firm is acting, within seven months after the end of the Scheme Year; and

(c) submit or procure the submission to IMRO of audited annual accounts of each OPS Collective Investment Scheme in respect of which the OPS Firm is acting, within seven months after the end of the Scheme Year.

10.4(3) Requirement to have an auditor

6.10.97; RN39

An OPS Firm must appoint or procure the appointment of a properly qualified auditor:

(a) to audit the accounts referred to in paragraphs (a) and (c) of Rule 10.4(2); and

(b) to report to IMRO as required under Rule 10.4(4);

and must, upon request, satisfy IMRO that he is properly qualified.

Note: Requirements for trustees of an OPS to appoint a qualified auditor of scheme accounts are contained in the Occupational Pension Schemes (Scheme Administration) Regulations 1996.

10.4(4) Contents of audit report

An OPS Firm must require the auditor appointed under Rule 10.4(3) to report to IMRO whether the audit carried out for the purposes of that Rule has been conducted in accordance with Auditing Standards and whether, in the auditor's opinion:

1.3.93; RS6

(a) the accounts referred to in paragraphs (a) and (c) of Rule 10.4(2) give a true and fair view of the state of affairs of the OPS Firm or OPS Collective Investment Scheme concerned;

Note: Under the Occupational Pension Schemes (Disclosure of Information) Regulations 1986 (as amended) the auditor of the accounts of an OPS is required to state whether in his opinion the accounts give a true and fair view of the financial transactions and disposition of the assets of the scheme.

(b) proper accounting records have been kept, and adequate systems for their control have been maintained, as required by the Accounting Records Rules, the Controls and Systems Rules and the Customers' Assets Rules, during the period ending on the Accounting Reference Date;

(c) (i) reconciliations of Customers' assets have been properly performed in accordance with
the Rules, during the period ending on the Accounting Reference Date; or

Note: OPS Firms which are not trustees must also ensure that the audit report includes the opinions relating to compliance with the Client Money Regulations, and the additional information on breaches, required by Regulation 4.11 of the Financial Services (Client Money) Regulations 1991.

(ii) based on review procedures performed, nothing has come to the auditors' attention that causes the auditor to believe that the OPS Firm held Client Money or Customers' assets during the period ending on the Accounting Reference Date;

(d) the OPS Firm was in compliance with the Customers' Assets Rules at the Accounting Reference Date;

(e) all information and explanations necessary for the purpose of the audit have been obtained.

10.4(5) Submission of audit report

1.3.93;RS6
An OPS Firm must ensure that the audit report required under paragraphs (b) to (e) of Rule 10.4(4) is submitted to IMRO within four months after the Accounting Reference Date.

10.4(6) Notification of impending audit qualification

1.3.93;RS6
An OPS Firm must notify IMRO forthwith upon being notified by the auditor of an OPS, or OPS Collective Investment Scheme, in respect of which the Firm is acting, of the auditor's intention to qualify the accounts of the OPS or scheme.

10.4(7) Notification of change to Scheme Year

1.3.93;RS6
An OPS Firm must notify IMRO of any change in the date of commencement of the Scheme Year of an OPS, or OPS Collective Investment Scheme, in respect of which the Firm is acting, not less than 15 business days prior to the date on which such a change is to become effective.

10.5 ENFORCEMENT, DISCIPLINE AND APPEALS

10.5(1) Modification of requirements for fines or costs

Where a fine is imposed on, or an award of costs is made against, an OPS Firm under Chapter VIII it may be made a requirement that such fine or costs shall not be charged the OPS in question.

1.3.93;RS6

SECTION 11 Trustee Activities

11.1 GENERAL

11.1(1) Application of Rules

30.11.91
The Rules in this Section apply to a Firm only in relation to those Trustee Activities which constitute Investment Business of a kind with which IMRO is concerned and to which the Rules apply. In undertaking such Trustee Activities a Trustee Activity is subject to the provisions of this Section whether it undertakes such Trustee Activities regularly or on an isolated occasion. It shall also comply with all the other provisions of the Rules except to the extent that they are expressly disapplied or modified under this Section or by some other provision of the Rules.

Note:

Firms should note from Rule 11.1(1) that the regulatory regime reflected in Section 11 applies to a Trustee Firm only in relation to its "Trustee Activity", which is any activity undertaken in the course of or incidental to the exercise of any of its powers, or the performance of any of its duties, when acting in its capacity as a trustee.

11.1(2) Exception to Rule 11.1(1)

30.11.91
A Trustee Firm will not be taken to have breached the Rules applying to it if it contravenes them as a result of a legal duty or as a result of a binding decision taken by the majority of its co-trustees.

11.1(3) Use of Permitted Third Party (PTP)

30.11.91

A Trustee Firm may use the services of a PTP only if:

(a) the Trustee Firm has notified IMRO of its intention to use such services either generally or in relation to specific activities constituting Investment Business;

(b) the Trustee Firm reasonably believes that the PTP is suitable to perform for the Trustee Firm the investment activity in question;

(c) the use of such services is authorised whether under the express terms of the instrument governing the trust or otherwise and is not prohibited by any applicable law;

(d) the use of such services is reasonable in the circumstances and, in a case where the PTP is managing investments, the Trustee Firm exercises reasonable supervision over that activity;

(e) the Trustee Firm supplies to the PTP all information believed by the Trustee Firm to be material and any other relevant information reasonably requested by the PTP; and

(f) where a Complaint about an activity being carried on by a PTP for a Trustee Firm is referred to the Trustee Firm by a settlor, beneficiary or co-trustee of a trust of which the Trustee Firm is a trustee, the Trustee Firm promptly considers whether, consistently with its duties as such trustee, it should pursue the Complaint against the PTP and, if it so concludes, promptly pursues the Complaint accordingly.

11.1(4) Further conditions for use of Permitted Third Party

1.4.95; RN7

None of the provisions of paragraphs 1(a)(i), 1(b)(ii), 1(b)(iii) and 1(c)(ii) of the definition of Specified Trustee Business shall prevent an activity from constituting Specified Trustee Business unless in addition the following conditions apply:

(a) (if it is an Authorised Person or an Exempted Person) the PTP agrees in writing to carry out the activity in question for the Trustee Firm (acting in its trustee capacity) as a Customer of the PTP; and

(b) the PTP agrees to comply with obligations substantially equivalent to those set out in Rules 3.1(1), (2) and (4), paragraph (a) of Rule 3.2(1), and Rules 3.2(2) and 3.8(1) of this Chapter in relation to its activities undertaken on behalf of the Trustee Firm (acting in its trustee capacity) as if the Trustee Firm were a Private Customer.

Note:

Rules 3.1(1), (2) and (4) are the suitability Rules, paragraph (a) of Rule 3.2(1) and Rule 3.2(2) are the Rules on understanding risk, and Rule 3.8(1) is the Best Execution Rule.

11.1(5) Interpretation of Rules

1.4.95; RN7

Unless otherwise expressly provided in this Section, the Rules which apply to a Trustee Firm shall be construed:

(a) as if references to:

"Customer" were to the trust of which the Trustee Firm is a trustee and with which or for the benefit of which the relevant activity is or is to be carried on; and the terms Private Customer, Execution-only Customer, Discretionary Customer, Current Customer Order, Customer Transaction, Customer Title Documents and Customers' Asset Rules shall be construed accordingly;

"Managed Portfolio" or "Discretionary Managed Portfolio" were to the Trust Fund;

"Customer Agreement" were to the instrument governing the trust;

(b) as if for all purposes of the Rules the trust is a Private Customer;

(c) as if all references to a settlor, a beneficiary or co-trustee were references to a settlor, beneficiary or co-trustee of the trust in relation to which the Trustee Activity in question is being carried on;
Note:
Where a Trustee Firm is carrying on Investment Business on behalf of a person who is a beneficiary of a trust of which the Trustee Firm is a trustee (as distinct from Investment Business carried on for the trust itself) the Trustee Firm will not be treated as carrying on a Trustee Activity and must therefore, in relation to such Investment Business, comply with the provisions of the Rules without the disapplications and modifications made in this Section.
(d) as if the term beneficiary includes, where appropriate, a holder of units or the equivalent in any Collective Investment Scheme; and
(e) as if, where a Trustee Firm is required by any of the Rules in this Section to provide information to, or obtain consent from, a Customer, the Trustee Firm were required to ensure that the information is provided to, or consent is obtained from, each of its co-trustees (if any) unless the context otherwise requires.

Note:
A Trustee Firm will not incur any obligation under this Rule in respect of any trust of which it is the sole trustee.

11.2 CONDUCT OF BUSINESS

11.2(1) Disapplication of certain Conduct of Business Rules

The Rules in this Chapter do not apply in relation to a Trustee Firm except for the following:
(a) (in the case of an Investment Advertisement issued or approved by a Trustee Firm which relates specifically to Specified Trustee Business):
  Rules 1.1(1) to (4) (Issue and Approval of Investment Advertisements) including Appendix 1.1(1) other than paragraph 28;
  Rule 1.2(1) (Issue or Approval of Advertisements for an Overseas Person) but only where the Trustee Firm has a co-trustee and as if the Prescribed Disclosure were required to be given to the co-trustee;
  Rules 1.3(1) (Direct Offer Advertisements: Restrictions and Content);
  Rules 1.4(1) and (2) (Disapplication of Certain Advertising Rules);
  (b) Rules 1.5(1) and (2) (Cold Calling);
  (c) Rule 1.6(1) (Inducements);
  (d) Rules 1.7(1) to (6) (Soft Commission);
  (e) Rule 1.8(1) (Overseas Business for UK Private Customers) but only where the Trustee Firm has a co-trustee and as if the Prescribed Disclosure were required to be given to the co-trustee;
  (f) Rule 1.9(1) (Overseas Business with Overseas Private Customers);
  (g) Rule 2.5(1) (Exclusion of Liability);
  (h) Rule 3.3(1) (Material Interest);

Note:
Trustee Firms are also reminded that Principle 6 (Conflicts of Interest) is of direct application.
  (i) Rules 3.14(1) and (2) (Insider Dealing);
  (j) Rule 4.1(1) (Fair and Clear Communications);
  (k) Rule 4.2(1) (Information about the Firm) as if references to "Customer" were to a beneficiary or a co-trustee of the trust of which the Trustee Firm is a trustee.

11.2(2) Trustees of Authorised Unit Trust Schemes: additional obligations

(a) In relation to its activities as trustee of an Authorised Unit Trust Scheme a Trustee
Firm, in addition to its obligation to comply with Rule 11.2(1), shall be treated as having contravened the Rules if it contravenes any of the applicable requirements of the Regulated Schemes Regulations.

Guidance on correction and compensation for incorrect pricing of Authorised Unit Trust Schemes is set out at Appendix 7.6(1)(a) in Section 7. Guidance on the correction of box management errors in relation to Authorised Unit Trust Schemes is set out at Appendix 7.6(1)(b) in Section 7.

(b) The trustee of an Authorised Unit Trust Scheme must report in writing to IMRO forthwith any facts which come to the knowledge of the trustee from which it appears or might appear that the Manager of the Scheme has failed materially:

Note:
Guidance on materiality can be found in paragraph 4(a) of Appendix 7.6(1)(b) for the correction of box management errors and paragraph 4.1 of Appendix 7.6(1)(a) for incorrect pricing.

(i) to give correct instructions to the trustee to create or cancel units in the Scheme when the Manager should have done so; or

(ii) to price units in the Scheme in accordance with the provisions of Part 4 of the Regulated Schemes Regulations.

(c) A Firm which is a trustee of an Authorised Unit Trust Scheme must submit to IMRO every three months a written return (to be received by IMRO not later than one month after the end of that period) stating, by reference to the Manager of each Authorised Unit Trust Scheme in respect of which the Firm is a trustee, the number of times during the period covered by the return in which facts came to the Firm's knowledge from which it appeared or might have appeared that the Manager had failed (materially or otherwise) in the manner set out in paragraphs (b)(i) and (ii) above, unless such failure was an isolated incident.

(d) The trustee of an Authorised Unit Trust Scheme must comply with Rules 5.1(1) to (8) of this Chapter in relation to its function as custodian of the property of the scheme.

11.2(3) Specified Trustee Business: application and modification of certain Conduct of Business Rules

2.2.98; RN37

When carrying on Specified Trustee Business a Trustee Firm is required to comply with the following Rules of this Chapter (as modified) in addition to those specified in Rule 11.2(1):

Where a Trustee Firm is acting for a trust of which it is, or is to be, a trustee, it will be treated as having complied with this Rule if it has regard to relevant facts about the trust and the beneficiaries disclosed by the settlor or any co-trustee and has taken reasonable steps to ascertain such other facts about the trust and the beneficiaries as may be relevant to enable it to fulfil its investment responsibilities as trustee.

(a) Rules 3.1(1), (2)) and (4) (Suitability);

(b) Rules 3.2(1) (paragraph (a) and (2) (Understanding Risk);

(c) Rules 3.4(1) and (2) (Reasonable Charges);

(d) Rule 3.5(1) (Information about the Firm's remuneration) as if references to "Customer" were to a settlor, co-trustee or beneficiary, whoever is the most appropriate;

(e) Rule 3.6(1) (Customer Order Priority);

(f) Rule 3.7(1) (Timely Execution);

(g) Rule 3.8(1) (Best Execution) except where a transaction constitutes underwriting (or an agreement or offer to underwrite) and on the basis that if any Charges made by the trustee or its agent for the purpose of paragraph (d) of Rule 3.8(1) are disclosed, they are so disclosed in the trust instrument or to a co-trustee;

(h) Rules 3.9(1) to (6) (Timely Allocation);

(i) Rules 3.10(1) to (3) (Fair Allocation);

(j) Rule 3.11(1) (Churning and Switching);

(k) Rule 3.13(1) (Contingent Liability Transactions);

(l) Rules 4.3(1) to (5) (Off-exchange Transactions);
Rules 4.4(1) to (3) (Contract Notes);

Rules 4.5(1), (3), (4) and (6) (Periodic Information) as if, in Rule 4.5(3) paragraph (a) were excluded and the word "other" were deleted from paragraph (b);

In complying with Rules 4.5(1), (3) and (6) a Trustee Firm should ensure that the Periodic Statement provided to co-trustees includes some provision where appropriate on each of the items set out in Table 4.5(5) of this Chapter.

Rules 5.1(1) to (8) (Safeguarding and administration of Customers’ assets).

11.2(4) Standards of advice on Packaged Products: replacement of Rules 6.3(1) and (2)

30.11.91

Rules 6.3(1) and (2) of this Chapter shall be replaced by the following:

“A Trustee Firm may not effect or recommend the effecting of an Investment transaction in relation to a Packaged Product unless the Firm has taken reasonable steps to ensure that the Packaged Product concerned will secure the investment objectives of the trust of which it is a trustee at least as well as any other generally available Packaged Product of which it is or reasonably should be aware.”

11.3 COMPLIANCE, REPORTING AND RECORDS

11.3(1) Disapplication of certain Rules

The following Rules of Chapter IV do not apply to Trustee Firms:

(a) Rule 1.5(2) (paragraph (d)) (Prohibited dealings);

(b) Rule 1.5(6) (Notification of transactions effected);

(c) Table 1.3(2) Questions 4A.1, 4A.2 and 4C.1(a) (Clients’ Money);

(d) Table 1.6(2)

(Records):
Part I paragraph 1
Part II paragraph 6
Part V (except in the circumstances described in paragraph (a) of Rule 11.2(1))
Part VI
Part VII;
(e) Rules 1.7(3) to (6)

(Appointed Representatives: Investment Agreements and Advice);

(f) Table 2.2(1), Part I paragraph 12

(Notification of conclusion of conciliation or adjudication proceedings).

11.3(2) Modification of certain compliance, reporting and records Rules

The following Rules of Chapter IV apply to Trustee Firms with the following modifications:

(a) Rules 1.6(4) and (5) as if the person having the right to inspect records were any co-trustee;

(b) Table 2.2(1) Part III as if the following were added to the list of Notifiable Events:

(y) the bringing of an action against the Firm for breach of trust;

(z) the making of an order by a Court removing a Firm from acting as a trustee.

11.3(3) Specified Trustee Business: application and modification of certain compliance, reporting and records Rules

The following Rules of Chapter IV (as modified below) apply to a Trustee Firm only when carrying on Specified Trustee Business:
Rule 11.3(3) limits the scope of certain Compliance, Reporting and Records Rules within Chapter IV in their application to a Trustee Firm when carrying on Specified Trustee Business. Such a Firm must also comply with all other Compliance, Reporting and Records Rules in Chapter IV (as modified in Rule 11.3(2)) except to the extent that they are disapplied in Rule 11.3(1).

(a) Table 1.6(2) Part I paragraph 1 as if references to "Customer" were to a co-trustee;
(b) Table 1.6(2) Part I paragraphs 2 to 4(ii) and paragraphs 5 to 7;
(c) Table 1.6(2) Part II paragraphs 1 to 5;
(d) Table 1.6(2) Part III paragraphs 1.

11.3(4) Trustee of Authorised Unit Trust Schemes: additional obligations

In relation to its activities as trustee of an Authorised Unit Trust Scheme a Trustee Firm shall comply with paragraph 12 of Table 2.2(1) of Chapter IV.

11.4 COMPLAINTS

11.4(1) Disapplication of certain Rules

Rules 3.1(1) to (15) of Chapter IV do not apply to a Trustee Firm except as provided under Rules 11.4(2) to (4).

11.4(2) Application and modification of certain Complaints Rules to Specified Trustee Business

The following Rules of Chapter IV (as modified below) apply to a Trustee Firm only when carrying on Specified Trustee Business:

Note: Rule 11.4(2) applies (with certain modifications) Rules 3.1(1) to (6) and (14) of Chapter IV to a Trustee Firm when carrying on Specified Trustee Business.

(a) Rule 3.1(1)

(Arrangements for Complaints and co-operation with their investigation) as if references to Customer were to a beneficiary or a co-trustee;

Note:

Rule 11.4(3) also applies (with certain modifications) the whole of Rule 3.1(4) (Content of Significant Complaints procedure) and Rules 3.1(7) to (15) (Firm to co-operate with Investment Ombudsman etc) of Chapter IV to Trustee Firms when carrying on Specified Trustee Business in relation to a Unit Trust Scheme.

(b) Rule 3.1(2)

(Firms to establish written Complaints procedure);
(c) Rule 3.1(4)

(Content of Significant Complaints procedure) excluding paragraphs (c), (d), (e) and (f); and as if references to Complainant were to a beneficiary or a co-trustee;

Note:

Rule 3.1(16) of Chapter IV (Complaints about Unit Trusts and Collective Investment Schemes) also applies to the trustee of a Unit Trust Scheme as it is one of the Rules which Trustee Firms are under a general obligation to observe by virtue of Rule 11.1(1).

(d) Rule 3.1(5) (Returns to IMRO);
(e) Rule 3.1(6) (Co-operation with IMRO) as if the references to Complainant were to a beneficiary or co-trustee;
(f) Rule 3.1(7) (Ombudsman's investigation);
(g) Rule 3.1(14) (paragraph (a))

(Appointed Representatives)
as if the reference to Rules 3.1(1) to (13) were to Rules 3.1(1) to (6) (as modified above) and as if the second sentence were omitted;
(h) Rule 3.1(14) (paragraph (b))
as if the reference to Rules 3.1(5) and (13) were to Rule 3.1(5) alone.

11.4(3) Additional application and modification of certain Complaints Rules to Specified Trustee Business relating to Unit Trust Schemes
1.5.95; RN11
When carrying on Specified Trustee Business in relation to a Unit Trust Scheme a Trustee Firm shall comply with the following Rules of Chapter IV (as modified below) in addition to those specified in Rule 11.4(2):

Note:
The exercise of supervision by a trustee of an Authorised Unit Trust Scheme over the manager of the Scheme constitutes Specified Trustee Business and therefore falls within the scope of Rules 11.4(1) to (4).
(a) Rule 3.1(4)
(Content of Significant Complaints procedure)
including paragraphs (c), (d), (e) and (f); as if references to Complainant were to a beneficiary or a co-trustee;

Note: Rule 11.4(3) applies (with certain modifications) the whole of Rule 3.1(4) and Rules 3.1(7) to (15) of Chapter IV to Trustee Firms when carrying on Specified Trustee Business in relation to a Unit Trust Scheme. Such Trustee Firms must also comply with the other Rules (as modified) listed under Rule 11.4(2), and with Rule 3.1(16) see also Note to Rule 11.4(2)).
(b) Rules 3.1(7) and (8)
(Ombudsman’s investigation and submission to adjudication);
(c) Rule 3.1(9)
(Co-operation by Firm with other Ombudsman Bureaux etc);
(d) Rules 3.1(10) and (11)
(Requirement not to pursue other remedies as if references to Complainant were to a beneficiary or a co-trustee;
(e) Rules 3.1(12) and (13)
(Compliance with awards etc and reporting them to IMRO);
(f) Rule 3.1(14)
(Appointed Representatives)
without the modifications made by Rule 11.4(2);
(g) Rule 3.1(15)
(Obligations binding on past Firms).

11.4(4) Modification of definition of Significant Complaint
1.5.95; RN11
For the purposes of Rules 11.4(2) and (3) the definition of Significant Complaint in the Definitions Schedule shall be subject to the proviso that the Complaint must relate to an activity constituting Specified Trustee Business.

11.5 TRUST MONEY
11.5(1) Disapplication of certain Rules
1.4.95; RN7
(a) Rules 11.5(2) to (14) do not apply to a Trustee Firm in relation to its activities as trustee of an Authorised Unit Trust Scheme.

Note:
By virtue of Rule 11.5(15), Rules 11.5(1) to (14) do not apply to a Trustee Firm which is a bank until further notice.
(b) Rules 11.5(3) and (4) do not apply to a Trustee Firm which is a bank to the extent that it holds trust money with itself.
11.5(2) Trust money to be held with an Approved Bank

1.4.95; RN7

(a) Where a Trustee Firm holds trust money it must ensure that the money is held in a Trust Money Bank Account with an Approved Bank, but this does not apply to a Trustee Firm which is a bank and holds trust money with itself.

(b) A separate Trust Money Bank Account must be held for each trust of which the Trustee Firm is a trustee.

11.5(3) Segregation

1.4.95; RN7

(a) Where a Trustee Firm holds trust money, it must ensure that, except to the extent permitted or provided for in Rule 11.5(4), the money remains separate from its own money.

(b) The only money other than trust money which may be held in a Trust Money Bank Account is:

(i) a minimum sum required to open the account or keep it in being, and

(ii) any money temporarily in the account pursuant to paragraph (c) of Rule 11.5(4).

11.5(4) Payment of trust money into Trust Money Bank Account

1.4.95; RN7

(a) Where a Trustee Firm begins to hold trust money, it must either:

(i) pay it as soon as possible (and, in any event, no later than the next business day after so beginning) into the relevant Trust Money Bank Account; or

(ii) pay it out, or pay it over in a manner which secures that it is no longer trust money.

(b) Where trust money is received by the Trustee Firm in the form of an automated transfer, the Trustee Firm must ensure that:

(i) where possible, the money is transferred into the relevant Trust Money Bank Account; and

(ii) in the event that the money is transferred into the Trustee Firm’s own account, the money is paid into the relevant Trust Money Bank Account no later than the next business day after the transfer.

(c) Where a Trustee Firm receives a ‘mixed remittance’ (that is an aggregate sum of money which is in part trust money and in part other money) it must pay the full sum into the relevant Trust Money Bank Account, but must then ensure that, except to the extent that it represents fees and commission due to it, the other money is paid out of the account within one business day of the day on which the Trustee Firm would normally expect the remittance to be cleared.

(d) Where a Trustee Firm receives dividends overseas on behalf of its trusts, it may pay that money into any bank account operated by it, provided that the Trustee Firm ensures that such money is distributed to the trusts concerned, or paid into a Trust Money Bank Account, within five business days of receipt.

11.5(5) Payment of money into Trust Money Bank Account on instruction of IMRO

1.4.95; RN7

Where pursuant to an instruction lawfully given by IMRO, a Trustee Firm pays its own money into a Trust Money Bank Account, such money must be treated as trust money for the purposes of Rules 11.5(2) to (14).

11.5(6) Accounting Records

1.4.95; RN7

(a) A Trustee Firm must keep accounting records which are sufficient to show and explain its transactions in respect of trust money, and which must in particular contain:

(i) entries from day to day of:

(1) all money which is paid into or out of any Trust Money Bank Account; and

(2) receipts and payments of trust money not passed through a Trust Money Bank Account
identifying the persons to whom each such receipt and payment relates; and

(ii) a record of the balances held on each Trust Money Bank Account.

(b) The accounting records must also show, in respect of each deposit into or withdrawal from a Trust Money Bank Account:

(i) the name of the trust concerned;

(ii) the date; and

(iii) the name of the person to whom (or, or in the case of a deposit, from whom) the money was paid or transferred (or, in the case of a deposit, received).

11.5(7) Nature of Accounting Records

(a) Accounting records may be kept in a form other than a document or copy of a document, provided that the record can be reproduced in hard printed form.

(b) Where all the accounting records relating to any trust are not kept together, each document or group of documents relating to it must be accompanied by an indication that other accounting records relating to that trust exist, and how access to them can be obtained.

(c) Subject to paragraph (d), a Trustee Firm may accept and rely on accounting records supplied by a third party so long as those records are capable of being, and are, reconciled with records created by it.

(d) A Trustee Firm may delegate to a third party its obligations to keep accounting records under Rules 11.5(2) to (14); but the Trustee Firm shall be responsible for the accuracy of those records, and for their compliance with those Rules, as if the records had been prepared by it.

(e) Accounting records must be kept in English.

11.5(8) Audit Trail

Effective up to May 8 2011.

(a) Information required to be recorded must be recorded in such a way as to enable a particular transaction to be identified at any time and traced through the accounting systems of the Trustee Firm.

(b) All accounting records must be arranged, filed and indexed so as to permit prompt access to any particular records.

11.5(9) Retention of Records

(a) A Trustee Firm must keep the records required by Rules 11.5(6) to (8) (together with any working papers which are created to assist in the preparation of a reconciliation or other record) for a period of six years after the date on which they are made or prepared.

(b) During the first two of the six years in paragraph (a), records and working papers must be kept either at a place where the Trustee Firm carries on business or in such manner that they can be produced at such a place within 24 hours of their being requested.

11.5(10) Reconciliation of Trustee Firm’s records with Approved Bank’s records

(a) Subject to paragraph (b) of Rule 11.5(10) a Trustee Firm must:

(i) as often as necessary to ensure the accuracy of its records, and at least once in every five weeks, reconcile the balance on each Trust Money Bank Account (as recorded by the Trustee Firm) with the balance on that account (as set out on the statement or other form of confirmation issued by the Approved Bank), currency by currency;

(ii) perform the Reconciliation carried out in accordance with paragraph (i) within 10 business days of the date to which the Reconciliation relates; and

(iii) correct any difference arising on the Reconciliation as soon as possible, unless the
difference arises solely as a result of timing differences between the accounting systems of the Approved Bank and of the Trustee Firm.

(b) Paragraph (a) above does not apply to a Trustee Firm which is a bank to the extent that it holds trust money with itself. Such a Firm must:

(i) as often as necessary to ensure the accuracy of its records, and at least once in every five weeks, ensure that the balance on each Trust Money Bank Account held by it properly reflects all sums of money paid into or out of that account as recorded in accordance with Rule 11.5(6); and

(ii) must correct any difference arising as soon as possible.

11.5(11) Failure to perform Reconciliations
1.4.95; RN7

(a) A Trustee Firm must notify IMRO as soon as possible where it is unable to perform the Reconciliations required by Rule 11.5(10).

(b) Where a Trustee Firm is unable to resolve a difference arising from a Reconciliation within the period allowed for the performance of the Reconciliation under these Rules, but one of the sets of records examined by the Trustee Firm during its performance of the Reconciliation indicates that that there might need to be a greater amount of money in the relevant Trust Money Bank Account than is in fact the case, the Trustee Firm must assume, until the matter is finally resolved, that that set of records is accurate and pay its own money into the relevant Trust Money Bank Account; and such money will henceforward be treated as trust money (until any time at which such difference is resolved, when the money concerned will be repaid to the Trustee Firm).

11.5(12) Notification to IMRO on Default of an Approved Bank
1.4.95; RN7

A Trustee Firm must notify IMRO as soon as it is aware of the Default of any Approved Bank with which it has deposited trust money.

11.5(13) Auditor's report
1.4.95; RN7

(a) A Trustee Firm must cause such records as are required to be maintained by Rules 11.5(2) to (14) to be examined from time to time by its auditor.

A Trustee Firm which is a bank may comply with Rule 11.5(13) by supplying to IMRO a copy of a report supplied to the Bank of England pursuant to Section 39(1)(b) of the Banking Act 1987, provided that that report covers the points set out in the Rule.

(b) The auditor must be required to report to IMRO in writing, in relation to the same periods in respect of which he is required to report on the Trustee Firm's financial statements or, where the Trustee Firm is not required to prepare such statements, in relation to periods of not more than twelve months:

(i) whether or not, in his opinion, the Trustee Firm has adequate systems to have enabled it to comply with Rules 11.5(2) to (14) throughout the period reported on;

(ii) whether or not, in his opinion, the Trustee Firm was, at the conclusion of that period, in compliance with Rules 11.5(2) to (14); and

(iii) any breaches of the Rules which had come to his attention during the period (disregarding any trivial breaches).

11.5(14) Submission of auditor's report
1.4.95; RN7

A Trustee Firm must ensure that the audit report is complete and sent to IMRO within four months of the end of the period to which it relates.

11.5(15) Transitional provision
1.4.95; RN7

Rules 11.5(1) to (14) do not apply to a Trustee Firm which is a bank until further notice.

11.6 FINANCIAL RULES
11.6(1) Disapplication of certain Rules
16.2.96; RN24

Paragraph (c) of Rule 3.1(3) of Chapter V (Customers' accounting records) do not apply to a Trustee Firm.

11.6(2) Modification of certain Financial Rules
16.2.96; RN24

Paragraph (e) of Rule 3.1(3) of Chapter V to applies to a Trustee Firm as if the words "their beneficial owner" were omitted.

11.7 RESIGNATION AND TERMINATION

11.7(1) Modification of certain Rules
1.4.95; RN7

Chapter VII applies to Trustee Firms as if references in paragraph (b) of Rule 3.1(3) and in Rule 3.1(9):

(a) to a Customer were to a beneficiary or a co-trustee; and

(b) to Rules 3.1(1) to (16) of Chapter IV were to Rules 3.1(1) to (16) of Chapter IV as modified by Rules 11.4(1) to (4).

11.8 ENFORCEMENT, DISCIPLINE AND APPEALS

11.8(1) Enforcement, discipline and appeals: modification of requirements for fines and costs
1.4.95; RN7

Where a fine is imposed on, or an award of costs made against, a Trustee Firm under Chapter VIII it may be made a requirement that such fine or costs shall not be charged against the trust of which the Trustee is a trustee.

SECTION 12 European Investment Firms

12.1 APPLICATION OF THE RULES TO EUROPEAN INVESTMENT FIRMS

12.1(1) Scope of the Rules in this Section
1.2.96; RN23

(a) In carrying on Home Regulated Investment Business in the UK a European Firm is subject to the Rules except to the extent that they are expressly disapplied, replaced or modified under the provisions of this Section, as set out in Table 12.1(1), and except to the extent that a Rule concerns matters for which responsibility is reserved to the ISD to a Competent Authority in the European Firm's Home State.

(b) A European Firm carrying on Investment Business in the UK other than its Home Regulated Investment Business is subject to the Rules except that those in Chapter VII apply subject to the exceptions and amendments in this Section.

12.1(2) Chapter I: Standards of Conduct
1.1.96; RN18

Rule 1.1(1) (Application of the Principles) applies to a European Firm as if the reference to "the Principles" were to "the Principles other than Principles 7 and 8 and Principles 6 and 9 (in so far the latter make provision as to the fitness of a firm to carry on any Home Regulated Investment Business in the UK or as to any other matter for which responsibility is reserved to a Competent Authority in the European Firm's Home State)".

12.1(3) Chapter IV: Compliance, Reporting, Records and Complaints
1.2.96; RN23

(a) Rules 1.1(5) to (8) (Employment contracts and supervision of Officers/employees) apply to a European Firm only in respect of its Appointed Representatives and where such an Appointed Representative is not itself a European Investment Firm.

(b) Rule 1.3(2) and Table 1.3(2) (Form and contents of Statement of Representation) apply
only to the extent that the Principles and Rules to which they relate apply only to European Firms by virtue of this Section and the provisions of the European Institutions Instrument or of the ISD Regulations.

(c) Rule 1.7(1)(a) (Requirements for Appointed Representatives) applies to a European Firm as if, immediately after "capacity", there were added the words "except that, where the Appointed Representative is a European Investment Firm, the firm shall be treated as having so satisfied itself".

(d) A European Firm must notify IMRO of the following:

(i) a decision by the Firm to make a claim on any insurance policy which it holds relating to professional indemnity in respect of any alleged act or omission by it arising out of the manner in which it has carried on its Home Regulated Investment Business in the UK;

(ii) a failure of the accounting systems of the Firm of such seriousness that the Firm is unable to comply with or demonstrate compliance with IMRO’s Rules applicable in respect of its Home Regulated Investment Business carried on in the UK;

(iii) the appointment of a receiver, administrator or trustee of an Appointed Representative of the Firm.

12.1(4) Chapter VII: Membership and Individual Registration Rules

31.10.97; RN43

(a) Paragraph (b) of Rule 1.4(4) (Matters relating to Appointed Representatives) applies to an Applicant which is a European Investment Firm intending to carry on Home Regulated Investment Business in the UK, but only in respect of any person who will be acting as the Applicant’s Appointed Representative in relation to such business and where such an Appointed Representative is not itself a European Investment Firm.

(b) Rule 1.5(1) (Basis of admission on collective basis) applies to an Applicant which is a European Investment Firm as if it reads as follows:

"Membership granted to trustees, or other persons carrying on or proposing to carry on Home Regulated Investment Business as a European Investment Firm in the UK on a collective basis (including partnership) shall be granted on a collective basis, and such trustees or other persons shall be regarded as a single Firm and may be referred to for membership purposes under a collective name."

(c) Rule 2.1(1) (Amendment of Permitted Business or Special Condition) shall apply to a European Firm as if it reads as follows:

"A European Firm may apply in writing to IMRO for permission to carry on Investment Business in the UK other than Home Regulated Investment Business. IMRO may, before considering such application, seek information from a third party, or require the Firm to submit further information. Pending the final outcome of such application, the Firm shall conduct its activities on the basis of its Home Regulated Investment Business."

(d) Rule 2.1(2) (Admission procedures may apply) shall apply to a European Firm as if it reads as follows:

"If IMRO considers that the proposed application should not be accepted, IMRO shall refer the application to the Admissions Committee for decision. In that event the Admission Procedures, and all the relevant appeal procedures of Chapter VIII, shall apply subject to such modification as the Admissions Committee or the Appeal Tribunal (as the case may be) may specify."

(e) Rule 2.1(3) (Notification of decision) shall apply to a European Firm as if it reads as follows:

"IMRO shall notify the Firm in writing, as soon as reasonably practicable, whether the application has been accepted."

(f) Rule 2.1(4) (Withdrawal of application) shall apply to a European Firm as if it reads as follows:

"An application to carry on Investment Business in the UK other than Home Regulated Investment Business may be withdrawn at any time."

(g) Rule 2.2(1) (Statement of Permitted Business) shall be replaced by the following:

"A European Firm must notify IMRO of the kinds of Investment Business and other activities, as set out in Part I of Table 2.2(1), which it proposes to carry on in the UK in connection with its Home Regulated Investment Business."

(h) Rule 3.1(3) (Cessation of Permitted Business) shall not apply so as to invalidate, for reasons relating to a European Firm’s fitness to carry on any Home Regulated Investment Business in the UK, the Firm’s notice of resignation from membership of IMRO given under Rule 3.1(1).

(i) Rule 3.2(1) (Termination by IMRO) shall not apply so as to result in the termination of
membership of a European Firm for reasons relating to that Firm's fitness to carry on any Home Regulated Investment Business but shall apply as if it included the following additional paragraphs:

"(g) if the Firm is a European Firm carrying on Home Regulated Investment Business in the UK, an absolute prohibition has been imposed upon it under Regulation 15 of the Banking Co-ordination Regulations;  
(h) if the Firm is a European Firm carrying on Home Regulated Investment Business in the UK, an absolute prohibition has been imposed upon it under Section 65 of the Act."

*Note:*

Such a prohibition may be imposed by SIB, under the powers delegated to it. 
(j) Paragraph (e) of Rule 3.2(1) shall apply to a European Firm as if it reads as follows:

"there has been a cessation of the whole of the Firm's Permitted Business."

**12.1(5) Chapter VIII: Enforcement, Discipline and Appeals**

31.10.97; RN43

(a) Rule 2.1(1) *(When Powers of Intervention may be exercised)* shall be replaced by the following:

"If it appears to the Board that, in relation to a European Firm carrying on Home Regulated Investment Business:

(a) it is necessary or desirable for the protection of investors, or persons who might become or may have been investors; or

(b) the Firm may have contravened any provisions of the Rules or the Principles (other than Principles other than Principles 7 and 8 and Principles 6 and 9 in so far as the latter make provision as to the fitness of a firm to carry on any Home Regulated Investment Business in the UK) or may have furnished IMRO with false, inaccurate or misleading information or may have contravened any prohibition or requirement imposed by or pursuant to the Act;

it may exercise one or more of the Powers of Intervention specified in Rule 2.1(2) by notice to the Firm."

(b) Paragraphs (g), (h) and (i) of Rules 2.1(2) shall apply in relation to a European Firm only where a Competent Authority in the Firm's Home State has requested that measures be taken for the purpose of ensuring that the Firm has sufficient assets available to cover risks arising from open positions on financial markets in the UK.

(c) Rule 3.1(1) *(Summary Fines)* applies to a European Firm as if a full-stop were inserted immediately after "Chapter IV" and the remainder of the Rule were deleted.

(d) Rule 4.1(1) *(Authorisation of Investigation)* shall be replaced by the following:

"If so requested by a European Firm's Home State or if, in relation to a European Firm, IMRO considers that:

(a) the Firm may have contravened any provisions of the Rules or the Principles (other than Principles 7 and 8 and Principles 6 and 9 in so far as the latter make provision as to the fitness of a firm to carry on any Home Regulated Investment Business in the UK), or the rules of FSA or of any SRO or Recognised Professional Body to which it was subject at the time of that contravention (whether or not it was at that time regulated by IMRO), or may have furnished IMRO with false, inaccurate or misleading information or may have contravened any prohibition or requirement imposed by or pursuant to the Act; or

(b) other circumstances may have arisen making an Investigation necessary or desirable;

IMRO may authorise an Investigation into the Permitted Business of the Firm and into any business or activities of the Firm which are carried on, however directly or indirectly, in association with its Permitted Business."

(e) Paragraph (c) of Rule 4.6(1) *(Decisions of the Enforcement Committee in respect of a Firm)* shall be replaced by the following:

"that there may have been a breach of the Principles other than Principles 7 and 8 and Principles 6 and 9 in so far as the latter make provision as to the fitness of a firm to carry on any Home Regulated Investment Business in the UK) or the Rules, or the rules of SIB or of any SRO or Recognised Professional Body to which the Firm was subject at the time of that breach (whether or not it was at that time regulated by IMRO), in which event the Committee may:

(i) decide that no disciplinary action should be taken; or
(ii) issue a Warning to the Firm in respect of the possible breach of the Principles, Rules or rules; or

(iii) decide that the matter should be the subject of disciplinary proceedings, in which case Rules 5.1(1) to (7) shall apply.”

(f) Paragraph (c) of Rule 4.6(4) (Decisions of the Enforcement Committee in respect of a Registered Individual) shall be replaced by the following:

"that there may have been a breach of the Rules applicable to Registered Individuals, or that, whilst he was registered as an individual with, and was subject to the rules of, another SRO or Recognised Professional Body, the Registered Individual may have breached any of those rules in circumstances where the possible breach related to the affairs of a person who is a Firm and who was, at the time of the possible breach, a member of that SRO or Recognised Professional Body (whether or not it was also regulated by IMRO at that time), in which event the Committee may:

(i) decide that no disciplinary action should be taken; or

(ii) issue a Warning to the Registered Individual in respect of the possible breach of the Rules or rules; or

(iii) decide that the matter should be the subject of disciplinary proceedings, in which case Rules 5.1(1) to (7) shall apply.”

(g) Rule 5.1(1) (Notice of commencement of proceedings) shall apply to European Firms as if paragraph (a) (ii) of that Rule were deleted.

Table

Table 12.1(1)

Table 12.1(1) Application of the Rules to European Firms

<table>
<thead>
<tr>
<th>CHAPTER I: STANDARDS OF CONDUCT</th>
<th>Applied</th>
<th>Modified</th>
<th>Disapplied</th>
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<td>1.1(1)</td>
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<td>1.2(1) and (2)</td>
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Note: The disapplication of Rule 1.2(2) of Chapter I to European Firms does not affect duty of such European Firms to comply with the provisions of the Takeover Code and the London Code of Conduct.

| 2.1(1)(a) and (c)                | Yes    | No      | No         |
| 2.1(1)(b)                       | No     | No      | Yes        |
| 3.1(1) to 4.2(1)                | Yes    | No      | No         |

CHAPTER II: CONDUCT OF BUSINESS

| 1.1(1) to 4.2(1)                | Yes    | No      | No         |
| 4.3(1) to 4.3(5)                | No     | No      | Yes        |
| 4.4(1) to 4.5(8)                | Yes    | No      | No         |
| 5.1(1) to 5.2(5) [RN48]         | No     | No      | Yes        |
| 6.1(1) to 11.7(2)               | Yes    | No      | No         |

CHAPTER III: FRIENDLY SOCIETIES

| No                               | No     | No      | Yes        |

CHAPTER IV: COMPLIANCE, REPORTING, RECORDS AND COMPLAINTS

<p>| 1.1(1) to 1.1(4)                 | Yes    | No      | No         |</p>
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**CHAPTER V: FINANCIAL RULES**

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**CHAPTER VII: MEMBERSHIP AND INDIVIDUAL REGISTRATION RULES**

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Yes Yes No
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Yes No No
SECTION 13 ISD Firms

13.1 APPLICATION OF THE RULES TO ISD FIRMS

13.1(1) Scope of the Rules in this Section

1.1.96; RN18

In carrying on ISD Investment Services in a Host State, an ISD Firm is subject to the Rules except to the extent that they are expressly disapplied, replaced or modified under the provisions of this Section, as set out in Table 13.1(1).

13.1(2) Modification of the Rules in Table 13.1(1)

1.1.96; RN18

Where a Rule is shown as modified in Table 13.1(1), that Rule shall apply to an ISD Firm carrying on ISD Investment Services in a Host State except to the extent that it concerns matters for which responsibility is reserved to a Competent Authority in the Host State.

TABLE

Table 13.1(1)

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SECTION 14 CREST Sponsors

14.1 APPLICATION OF THE RULES TO CREST SPONSORS

14.1(1) Scope of the Rules in this Section

15.7.96;RN29

A Firm whose Permitted Business includes, or consists solely of, acting as a CREST Sponsor must, when carrying on that activity, comply with the Rules, except to the extent that they are expressly disapplied, replaced or modified by the provisions of this Section.

14.1(2) Interpretation of Rules

15.7.96;RN29

The Rules which apply to a Firm when acting as a CREST Sponsor shall be construed as if:

(a) references to “Customer”, including “Private Customer” and “Non-private Customer”, were to the person on whose behalf the Firm sends instructions, unless the context otherwise requires; and

(b) a Firm whose Permitted Business consists solely of acting as a CREST Sponsor were not an ISD Firm.

14.1(3) Chapter II: Conduct of Business Rules

15.7.96;RN29

The Rules in this Chapter do not apply to a Firm when acting as a CREST Sponsor, except for the following:

(a) Rules 1.1(1) and (4) (Issue and approval of Investment Advertisements);

(b) Rule 1.2(1) (Restrictions on issue or approval of advertisements for an Overseas Person);

(c) Rule 1.6(1) (Prohibition on Inducements);

(d) Rule 2.5(1) (Exclusion of liability: Customers' rights);
14.1(4) Chapter IV: Compliance, Reporting, Records and Complaints

Rule 3.5(1) (Information about the Firm's Remuneration disclosure requirements);

(f) Rule 4.1(1) (Requirements to ensure fair and clear communication);

(g) Rule 4.29(1) (Adequacy of information about the Firm).


Rule 1.6(2) and Table 1.6(2) of Chapter IV (Form and content of records to be kept) do not apply to a Firm when acting as a CREST Sponsor.

The Rules in Chapter V apply to a Firm whose Permitted Business consists solely of acting as a CREST Sponsor, as if the words "paragraph (a) of" in paragraph (b) of Rule 2.1(3) were deleted, and as if Rules 2.3(1) to (5) (Financial Resources Requirement) were replaced by the following:

Note:

The effect of this Rule is to require a person that obtains authorisation from IMRO solely to carry on business as a CREST Sponsor to have liquid capital to cover an amount equivalent to six weeks' fixed costs. Existing Firms will not need to meet an additional capital requirement. The position of those Firms (e.g. OPS Firms) not otherwise subject to the Financial Rules remains unchanged.

"2.3(1) Determination of Requirement

The Financial Resources Requirement for a Firm which is a CREST Sponsor is a Liquid Capital Requirement, being the sum of its:

(a) Expenditure Based Requirement calculated in accordance with Part I and paragraph 1 of Part II of Table 2.3(5)(a);

(b) Position Risk Requirement calculated in accordance with Table 2.3(5)(b);

(c) Counterparty Risk Requirement calculated in accordance with Table 2.3(5)(c);

(d) Foreign Exchange Requirement calculated in accordance with Table 2.3(5)(d); and

(e) Other Assets Requirement calculated in accordance with Table 2.3(5)(e)."

14.2 SPECIFIC REQUIREMENTS FOR CREST SPONSORS

14.2(1) Services to be provided under a written agreement

A Firm must ensure that the services to be provided by it as a CREST Sponsor are set out in adequate detail in a written agreement with the Customer.

The written agreement required by Rule 14.2(1) should include some provision on each of the following, where relevant:

(a) that the Firm is regulated in the conduct of Investment Business by IMRO;

(b) a full description of the services that the Firm will provide;

(c) when and how the agreement is to enter into force, and how amendments to it may be made;

(d) the respective responsibilities and liabilities of the Firm and the Customer;

(e) the basis on which any remuneration or Charges will be payable by the Customer to the Firm, and the method and frequency of payment;

(f) the arrangements for accounting to the Customer for any instructions transmitted to a Relevant System on his behalf, including the Customer's rights of access to any records maintained on his behalf by the Firm;

(g) arrangements for termination of the agreement, or transfer to another CREST Sponsor;

(h) the arrangements for the transmission of settlement instructions by the Customer to the Firm;
(i) guidance on how to complain to the Firm, including a statement that the Customer also has a right of complaint direct to the Investment Ombudsman; and

(j) information about the Customer’s rights to compensation, if the Firm is unable to meet any of its liabilities to the Customer in relation to the services to be provided, or a reference to the availability of a statement describing those rights.

A Firm may comply with Rule 14.2(1) by including the provisions set out above in an existing Customer Agreement, or other written agreement, with the Customer or, where different, with the beneficial owner of the Investments (for example, the investment management client of the Firm or its Associate). A separate agreement for sponsorship services will not be necessary where a Firm is satisfied that an existing Customer Agreement, or other authority held by the Firm, adequately covers the services to be provided by it as CREST Sponsor.

14.2(2) Systems and security
10.11.97; RN42

A Firm which is a CREST Sponsor must have procedures and systems which are adequate to ensure that:

(a) no officer or employee of the Firm transmits a dematerialised instruction to a Relevant System unless authorised by the Firm to do so;

(b) no dematerialised instruction is transmitted by the Firm to a Relevant System unless the Firm is satisfied that it is a valid instruction relating to the account of the Customer on whose behalf it is sent.

14.2(3) Records
10.11.97; RN42

A Firm which is a CREST Sponsor must ensure that:

(a) proper records are maintained, for a minimum period of five years, of instructions which it receives and passes to a Relevant System on behalf of other persons for whom it acts as CREST Sponsor;

(b) it can produce on request an accurate statement of a Customer’s entitlement as recorded on a Relevant System.

SECTION 15 Depositaries

15.1 GENERAL
3.2.97; RN34

15.1(1) Application of Rules

The Rules in this Section apply only to a Firm in relation to its activities as a Depositary of a UK Open-ended Investment Company.

15.2 CONDUCT OF BUSINESS

15.2(1) Applicable of Conduct of Business Rules
2.2.98; RN37

The Rules in this Chapter do not apply in relation to a Firm’s activities as a Depositary of a UK Open-ended Investment Company except for the following:

(a) (in the case of an Investment Advertisement issued or approved by a Depositary which relates specifically to UK Open-ended Investment Companies):

Rules 1.1(1) to (4) (Issue and Approval of Investment Advertisements) including Appendix 1.1(1) other than paragraph 28;
Rule 1.3(1) (Direct Offer Advertisements: Restrictions and content);
Rules 1.4(1) and (2) (Disapplication of Certain Advertising Rules);
(b) Rules 1.5(1) and (2) (Cold Calling);
(c) Rule 1.6(1) (Inducements);
(d) Rules 1.7(1) to (6) (Soft Commission);
(e) Rule 1.9(1) (Overseas Business with Overseas Private Customers);
(f) Rule 2.5(1) (Exclusion of Liability);
(g) Rule 3.3(1) (Material Interest);

Note:
Depositaries are reminded that Principle 6 (Conflicts of Interest) is of direct application.
(h) Rules 3.14(1) and (2) (Insider Dealing);
(i) Rule 4.1(1) (Fair and Clear Communication);
(j) Rules 5.1(1) to (8) (Safeguarding and administration of Customers’ assets).

15.2(2) Contravention of the Regulations

3.2.97; RN34
In relation to its activities as Depositary of a UK Open-ended Investment Company, a Firm shall be treated as having contravened the Rules if it contravenes any of the applicable requirements of the Open-ended Investment Companies Regulations.

15.2(3) Additional obligations

3.2.97; RN34
(a) The Depositary of a UK Open-ended Investment Company must report in writing to IMRO forthwith any facts which come to the knowledge of the Depositary from which it appears or might appear that the Authorised Corporate Director of the company has failed materially:

Note:
Guidance on materiality can be found in paragraph 4.2 of Appendix 7.6(1)(d) for the correction of box management errors and paragraph 4.2 of Appendix 7.6(1)(c) for valuation and pricing.
(i) to arrange for the issue or cancellation of shares in the company when the Authorised Corporate Director should have done so; or

(ii) to price shares in the company in accordance with the provisions of Part 4 of the Open-Ended Investment Companies Regulations.

(b) A Firm which is a Depositary of a UK Open-ended Investment Company must submit to IMRO every three months a written return (to be received by IMRO not later than one month after the end of that period) stating, by reference to the Authorised Corporate Director of each UK Open-ended Investment Company in respect of which the Firm is a Depositary, the number of times during the period covered by the return in which facts came to the Firm’s knowledge from which it appeared or might have appeared that the Authorised Corporate Director has failed (materially or otherwise) in the manner set out in paragraphs (a)(i) and (ii) above, unless such failure was an isolated incident.

CHAPTER III FRIENDLY SOCIETIES

SECTION 1 Application

1.1 APPLICATION OF THE RULES

1.1(1) Application to Investment Business of Regulated Friendly Societies

30.11.91
The Rules apply to the Investment Business of a Regulated Friendly Society only in so far as they make provision for the following matters:

Note:
The expression “the Rules” is defined to include the Statutory Rules which are directly binding on a Regulated Friendly Society.
(a) procuring persons to transact regulated friendly society business with it and advising persons as to the exercise of rights conferred by an Investment acquired from it in the course of such business; or

(b) managing the Investments of pension funds, procuring persons to enter into contracts for the management of such Investments and advising persons on such contracts and the exercise of
the rights conferred by them; or

(c) matters incidental to those mentioned in (a) and (b) above.

SECTION 2 Notification to Registrar

2.1 MATTERS TO BE NOTIFIED TO THE REGISTRAR

2.1(1) Refusal of membership

30.11.91

When IMRO is minded to refuse an application for membership by a Regulated Friendly Society, IMRO shall, before refusing such application, inform the Registrar.

2.1(2) Compliance and disciplinary measures

30.11.91

When IMRO proposes in the course of any compliance or disciplinary action concerning a Regulated Friendly Society to:

(a) take any step which would, or which in practice could, require a financial call on the life fund of the society; or

(b) take any disciplinary action against the society; or

(c) undertake any Intervention or impose any restriction or Special Condition, which might affect the solvency of the society or in some other way have a material and adverse effect on the society's financial position; or

(d) undertake any Intervention or impose any restriction or Special Condition, which might affect market confidence in the society;

IMRO shall, before taking any such action, inform the Registrar of the circumstances of the proposal, the action proposed and the reasons for it and shall only proceed after receiving the agreement of the Registrar in writing.

CHAPTER IV COMPLIANCE, REPORTING, RECORDS AND COMPLAINTS

SECTION 1 Compliance, Inspections and Records

1.1 COMPLIANCE ARRANGEMENTS: GENERAL

1.1(1) Compliance by Officers and employees with the regulatory system

1.7.95; RN13

A Firm must take reasonable steps, including the establishment and maintenance of procedures, to ensure that its Officers and employees and Officers and employees of its Appointed Representatives act in conformity with their own and their employer's relevant responsibilities under the regulatory system.

Principle 9 requires a Firm to have adequate arrangements to ensure that its employees are suitable, adequately trained and properly supervised. These arrangements should cover recruitment procedures, including the vetting of applicants for employment and the taking-up of references.

1.1(2) Appointment of a Compliance Officer

30.11.91

A Firm must ensure that its Compliance Procedures include the appointment of a Compliance Officer of appropriate status and experience.

Note:

"Compliance Procedures" is a term defined in the Definitions Schedule. It is not limited to formal procedures but includes other arrangements designed to ensure that officers, employees and representatives are made aware of their obligations under the regulatory system and comply with them.

1.1(3) Written statement of Compliance Procedures

30.11.91
A Firm must ensure that its Compliance Procedures are set out in writing and that a copy of that part of the written Compliance Procedures relevant to the Investment Business carried on by a given office of the Firm is kept at that office. Copies of the document must be available to each Officer, employee and Appointed Representative of the Firm who is engaged in the Firm’s Permitted Business.

A Firm may record its Compliance Procedures in more than one document, in order to tailor its compliance manual to the requirements of different offices or departments.

Transitional Provisions apply to Rule 1.1(3) in relation to any dispensation by IMRO from the requirement to maintain written compliance arrangements.

1.1(4) Exception: written statements not required

30.11.91

IMRO may grant a written dispensation from the requirements of Rule 1.1(3) if IMRO is satisfied that it is appropriate to do so.

Note:
Normally dispensation under Rule 1.1(3) will only be granted in relation to a business of which the proprietor is the only full-time person engaged in the Firm’s Investment Business, although there may be other people in administrative support roles.

1.1(5) Supervision of Company and Appointed Representatives

1.7.95; RN13

A Firm must establish and maintain procedures with a view to ensuring that each of its Company and Appointed Representatives:

Note:
Rules 1.7(1) to (5) of this Chapter describe the nature of a Firm’s responsibility for its Appointed Representatives and the limitations to be imposed on their activities.

Note:
Firms are also required to keep records relating to Company and Appointed Representatives as specified in paragraph 1 of Part III of Table 1.6(2) of this Chapter.

(a) does not procure, endeavour to procure or advise anyone to enter into a transaction if the Company or Appointed Representative (as the case may be) is not competent to advise on that transaction or to assess its suitability for investors; and

(b) behaves in a reasonable manner when calling upon a Private Customer.

To comply with Rule 1.1(5)(b) a Firm’s procedures should include, and require observance of, the following conditions in relation to calls (including telephone calls and personal visits) on Private Customers:

(a) calls should not be made at an unsociable hour without good cause;

(b) until the caller and the purpose of the call have been identified (and this information should be repeated, if requested, at any time during the call), the caller should only engage in the normal social preliminaries and make no reference to specific Investments;

(c) the call should, on request, be terminated at once;

(d) where the caller seeks to make a further appointment he should give the person called upon a contact point at which the appointment can be cancelled and should not persist if the person called upon refuses the further appointment; and

(e) a call may be made to an ex-directory telephone number only with the express or implied agreement of the Customer concerned.

1.1(6) Contracts of employment and contracts for services

30.11.91

Subject to the exceptions in Rule 1.1(7), a Firm must:

(a) ensure that under their terms and conditions of service, or contracts for services, each of its employees and Appointed Representatives and each of the employees of its Appointed Representatives who are engaged in its Permitted Business or in activities affecting that business, give the undertakings in Rule 1.1(8); and
The undertakings required to be given by employees and Appointed Representatives by Rule 1.1(6) may be contained in their contracts of employment or for services or in any other separate document.

(b) use all reasonable endeavours to ensure that all other persons who are engaged in its Permitted Business or in activities affecting that business give those undertakings.

1.1(7) Exceptions to required contract terms

30.11.91

The provisions of Rule 1.1(6) do not apply:

(a) during the three months immediately following the Firm's admission to membership of IMRO or during such other period as IMRO may in writing approve; or

(b) to such categories of employees or persons as IMRO may permit, having regard to the nature of the duties of the employees or persons concerned. IMRO may suspend such permission in whole or in part and with effect from such time as may be notified to the Firm.

30.4.99: RN50

Each person referred to in Rule 1.1(6) must individually or corporately:

(a) in so far as it is reasonably in that person's power, undertake to obey:

(i) the Rules as if they were directly binding; or

(ii) the Firm's written Compliance Procedures; and

(b) undertake that the Firm may take or require the Appointed Representative to take all steps necessary to comply with any instruction, direction or request properly made by IMRO under the Rules. [RN 50]

1.1(8) Undertakings required

30.11.91

In the event of a breach of any of the terms and conditions of service or contracts for services referred to in Rule 1.1(6) which IMRO shall consider material, a Firm must take, or require the Appointed Representative to take all steps as IMRO may in writing request and as may be within the power of the Firm, to enforce the relevant terms and conditions or contracts.

1.1(10) Training and Competence

1.1.98; RN33

(a) A Firm must have adequate arrangements in place to ensure on a continuing basis that its Company Representatives and employees, and those of its Appointed Representatives, who are engaged in discretionary or advisory management of Investments or who give advice upon Investments to or for Customers, and employees of the Firm who on a day to day basis supervise or control Administration Functions, are adequately trained and properly supervised having regard to the nature of their responsibilities and are competent to discharge those responsibilities.

Note:
The purpose of these requirements is to ensure that at each Firm:

1 training and competence arrangements are properly organised;

2 staff have received adequate training and instruction to perform their work competently;

3 staff have demonstrated the ability to apply their knowledge and skills in relevant practical situations;

4 staff maintain high standards of integrity and fair dealing;

5 There is a system for assessing the competence, and continuing training and development requirements, of each member of staff, and for fulfilling those requirements.

Appendix 1.1(10) sets out the standards which a Firm should consider in deciding whether its
arrangements for training and competence are adequate.

Note:
A Firm is required under Table 1.3(2) of Chapter IV to ensure that the Training and Competence declaration required by the Statement of Representation is completed.

(b) (i) The arrangements required by paragraph (a) above must include a provision that an individual to whom the Rule applies cannot attain Threshold Competence unless he pass an appropriate Approved, Recognised or Accredited In-House Examination and an internal assessment to determine that he possesses the knowledge and practical experience required.

(ii) Criteria for exemption from the examination requirement of paragraph (b) (i) above will be published from time to time by IMRO.

Note:
This Rule is subject to the transitional provisions shown below.
1 An individual who, on 1 January 1998, is employed by a Firm in a capacity which involves the day-to-day supervision or control of the Firm’s Administration Functions will not be required to pass an appropriate Approved, Recognised or an Accredited In-House Examination in accordance with paragraph (b)(i) of Rule 1.1(10) if:

(a) he has, at that date, two years’ experience which is current and relevant to his role; and

(b) he has otherwise been assessed by the Firm to be Threshold Competent.

2 An individual who, on 1 January 1998, is employed by a Firm in a capacity which does not involve the day-to-day supervision or control of the Firm’s Administration Functions, but who is appointed in such a capacity after that date, will not be required to pass an appropriate Approved, Recognised, or an Accredited In-House Examination in accordance with paragraph (b)(i) of Rule 1.1(10) if:

(a) he has, as at 1 January 1998, two years’ experience which is current and relevant to his role, and he has been assessed by the Firm as satisfying the knowledge element that would otherwise be demonstrated by a pass in an appropriate examination; and

(b) he is subsequently assessed by a Firm to be Threshold Competent in the role to which he is appointed.

1.2 ACCESS AND INSPECTIONS

1.2(1) Access and Inspections by IMRO
30.11.91
Records required to be maintained by the regulatory system may be inspected by a person appointed for the purpose by the Firm's regulator.

1.2(2) Extension of Rule 1.2(1)
1.5.94; RS8
(a) IMRO shall also be entitled to conduct Inspections of the conduct of the whole or any part of any Firm’s or Registered Individual’s activities relating to or affecting a Firm’s Permitted Business.

Note:
"Inspection" is defined to mean "an Inspection of whatsoever kind" carried out under Rule 1.2(1) or (2). Therefore it may include routine Inspections on a pre-arranged basis and random spot checks.

(b) Any Inspection carried out under Rule 1.2(1) or paragraph (a) above may be conducted inside or outside the UK on any basis that IMRO considers appropriate.

1.2(3) Co-operation by Firms
1.5.94; RS8
Each Firm and Registered Individual must co-operate to the fullest possible degree with any Inspection. Without limiting the generality of this obligation, a Registered Individual must ensure that he, and a Firm must ensure that it and, to the extent that they are under its power or control, any persons who are its Directors Officers, employees, Appointed Representatives or Company Representatives, shall upon request:
(a) make themselves readily available to any Inspection Team;

(b) produce to any Inspection Team any documents, files, computer data and other material in
his or its possession, power or control that the team considers necessary for the performance
of its duties;

(c) give any Inspection Team access at all times to the Firm's premises and reasonable
facilities therein (including access to any records, files or computer systems) as the
Inspection Team may require;

(d) permit any Inspection Team to copy documents or other material on the Firm's premises or
elsewhere at the Firm's expense and to remove copies and hold them elsewhere;

(e) answer truthfully, fully and promptly all questions put to them by any member of an
Inspection Team; and

(f) suspend record entries until checks on the observance of the Rules have been completed.

1.2(4) Lien on Document

1.5.94; RS8

Where a Firm or Registered Individual claims a lien on a document to be produced under Rule
1.2(3), it shall be produced subject to such lien.

1.3 STATEMENTS OF REPRESENTATION

1.3(1) Obligation to deliver

30.11.91

Each Firm must provide IMRO once a year (or more frequently if deemed necessary by IMRO) with
a written Statement of Representation for the period since the previous statement (or, if
none, since the Firm became a member of IMRO) to a date determined by IMRO, being either the
Firm's Mid-Year Point or, in special circumstances, an alternative date agreed with IMRO.

1.3(2) Form and contents

1.7.95; RN13

Statements of Representation must be in the form set out in, and provide the information
required by, Table 1.3(2).

1.3(3) Time limits for submission

30.11.91

A Statement of Representation must be received by IMRO not more than two months after the end
of the period to which it relates.

1.4 COMPLIANCE ARRANGEMENTS: INSIDER DEALING

1.4(1) Compliance by Officers and employees with statutory restrictions

30.11.91

A Firm must take reasonable steps, including the establishment and maintenance of procedures,
to ensure that its Officers and employees and Officers and employees of its Appointed
Representatives act in conformity with, where relevant, the requirements of the statutory
restrictions on insider dealing.

1.5 COMPLIANCE ARRANGEMENTS: PERSONAL DEALINGS

1.5(1) Compliance by Officers and employees with personal dealing arrangements

16.2.96; RN24

A Firm must take reasonable steps, including the establishment and maintenance of procedures,
to ensure that its Officers and employees and Officers and employees of its Appointed
Representatives act in conformity with appropriate arrangements on propriety in personal
dealings.

Note:

A European Firm may apply to IMRO for a waiver of Rules 1.5(1) to (7) if it is able to
demonstrate that it is subject to Home State requirements which are at least as stringent as
Rules 1.5(1) to (7).

The arrangements set out in Rules 1.5(2) to (7) should apply to all dealings in Investments by Officers (including Directors) and employees of a Firm and its Appointed Representatives other than:

(a) dealings undertaken when the Officer or employee is acting for a Customer of the Firm in the course of his duties or is unaware, by reason of a Chinese Wall, of the facts or circumstances which would otherwise give rise to a breach of the Rules; or

(b) dealings in Government and Public Securities, Life Policies or units in a Regulated Collective Investment Scheme.

Each Firm should arrange for the requirements in Rules 1.5(2), (3) and (5) to (7) regarding personal dealings by its Officers and employees, and those of its Appointed Representatives, to be:

(a) set out in a written notice which is drawn explicitly to the attention of the Officer or employee concerned; and

(b) made a term of his contract of employment.

Note:

Nothing in Rules 1.5(1) to (7) purports to affect the legal rights of any person other than those to whom the Rule directly applies.

Note:

Nothing in Rules 1.5(1) to (7) exempts any individual from observing the requirements of the Act concerned with insider dealing and of Part V of the Criminal Justice Act 1993. Rule 1.4(1) requires a Firm to take reasonable steps to ensure that its Officers and employees and those of its Appointed Representatives observe the statutory restrictions on insider dealing (including the provisions of Part V of the Criminal Justice Act 1993).

1.5(2) Prohibited dealings

1.7.95; RN13

Each Firm must take reasonable steps to ensure that none of its Officers or employees or those of its Appointed Representatives, either on his own account or on that of any Connected Person, effects any transaction:

(a) in an Investment at any time if he knows or should reasonably know that this would contravene the provisions of Part V of the Criminal Justice Act 1993 which relate to insider dealing or paragraph (b) of Rule 3.14(1) of Chapter II, or that the Firm is prohibited by Rule 3.6(1) or Rules 3.12(1) to (3) of Chapter II from effecting that transaction on its own account; or

Note:

Rule 3.14(1) of Chapter II relates to dealing for a Customer who is prohibited by the statutory restrictions on insider dealing; Rule 3.6(1) relates to Customer order priority and Rules 3.12(1) to (3) relate to dealing ahead of published research or analysis.

(b) if he knows or should know that to do so would involve him in a conflict between his own interest or that of any Connected Person and that of any Customer or his duty to any Customer; or

(c) in an Investment of a description in relation to which Firm carries on Investment Business, unless the Firm has consented to that particular transaction or to transactions generally in Investments of that description; or

(d) in an Investment with a Customer whose portfolio is under the discretionary management of the Firm, unless he has the specific written consent of the Firm which may be given only when the Customer is the spouse, cohabitant or infant child of the Officer or employee.

Note:

The restriction on personal account dealing in paragraph (d) of Rule 1.5(2) would not prevent an employee from selling or purchasing units in a Collective Investment Scheme or shares in an investment trust, the assets of which, in either case, are managed by the Firm.

1.5(3) Notification of dealings
30.11.91

Firms must take reasonable steps to ensure that its Officers and employees and those of its Appointed Representatives inform the Firm or, as the case may be, the relevant Appointed Representative as soon as reasonably practicable after a transaction of the kind described in paragraph (c) or (d) of Rule 1.5(2) above has been effected.

1.5(4) Records
30.11.91

Each Firm must make a record of each consent given under paragraph (c) or (d) of Rule 1.5(2) above and each notification given in accordance with Rule 1.5(3).

1.5(5) Disclosure of office or employment
30.11.91

Each Firm must take reasonable steps to ensure that, if any of its Officers or employees or those of its Appointed Representatives, either on his own account or on that of any Connected Person, with or through the agency of another firm, effects a transaction relating to an Investment of a description in relation to which the Firm carries on Investment Business:

(a) he informs that other firm that he is an Officer or employee of the Firm; and

(b) he does not request or accept from that other firm any credit or special dealing facilities in connection with the transaction unless the Firm has given specific consent.

1.5(6) Notification of transactions effected
30.11.91

A Firm must ensure that, if any of its Officers or employees or those of its Appointed Representatives effects a transaction in an Investment of any description with or on behalf of a Customer whom he knows to be an Officer or employee of a person who carries on Investment Business in relation to Investments of the same description, that person is informed of the transaction, its terms and the identity of the Customer, unless the Officer or employee has good reason to believe that that person has consented to the transaction being effected.

1.5(7) Observance by Connected Persons
30.11.91

A Firm must take reasonable steps to ensure that each of its Appointed Representatives, and each of the Firm’s Officers or employees and of those of its Appointed Representatives, takes reasonable steps to ensure that when any Connected Person is acting on his own account, that person observes the requirements of Rules 1.5(1) to (6) as though they applied to that person. This Rule 1.5(7) does not apply where the Connected Person is an Officer or employee of another Authorised Person and acts on his own account in connection with a transaction in an Investment of a description in relation to which that other Authorised Person carries on Investment Business.

Note:
The term "Connected Person" is defined in the Definitions Schedule to mean anyone connected with the Officer or employee concerned by reason of a domestic or business relationship (other than as arises solely because that person is a Customer of the Firm), such that the Officer or employee has influence over that person's judgment as to how to invest his property or exercise any rights attaching to his Investments.

1.6 RECORDS

1.6(1) Recording requirements
1.1.96; RN18

A Firm must take reasonable steps, including the establishment and maintenance of procedures, to ensure that sufficient information is recorded and retained about its Regulated Business and about ISD Investment Services carried on in a Host State.

1.6(2) Records to be kept
1.7.95; RN13

Each Firm must make a record of those events and matters which concern it as specified in Table 1.6(2) and must keep such records for the minimum period of retention specified in that Table even if this extends beyond the cessation of the Firm’s business.
A Firm may keep a record required under Rule 1.6(2) in any form provided it is capable of reproduction in hard printed form within one business day.

1.6(3) Form of records

30.11.91

The records referred to in Rule 1.6(2) may be in any language provided that the Firm has facilities for those records to be translated into English within a reasonable time.

1.6(4) Inspection of records relating exclusively to one Customer

30.11.91

A Firm must allow a Customer to inspect, either personally or through an agent, any record of matters relating exclusively to him within seven days of receiving his request.

1.6(5) Inspection of other records

30.11.91

If a Firm's Customer asks to inspect any entries in its records which relate to transactions effected by the Firm with or for him, but which are not exclusive to him, the Firm may refuse but, if so, the Firm must inform the Customer that IMRO has the right to inspect those entries if IMRO thinks it appropriate.

1.6(6) Destruction of records or files

30.11.91

Without limiting any other obligation under the Rules or under general law, each Firm must take all steps within its power to ensure that, without the express consent in writing of IMRO, no record or file shall be amended or destroyed if it may be relevant to any matter which is currently the subject of an Inspection, an Investigation or any disciplinary or other process, reference or appeal under Chapter VIII.

Note:
Firms who keep their records on computer disk, tape or the like would be well advised to duplicate that material at regular intervals to avoid the risk of total loss through computer error, 'wiping' or otherwise. Computer loss may be an extenuating circumstance but its occurrence cannot relieve a Firm from the consequences of a failure to comply with a Rule.

1.7 APPOINTED REPRESENTATIVES

1.7(1) Requirements for Appointed Representatives

30.11.91

(a) A Firm must satisfy itself on reasonable grounds and on a continuing basis that any Appointed Representative it appoints is fit and proper to act for it in that capacity.

(b) A Firm must also satisfy itself on reasonable grounds and on a continuing basis that it has adequate resources to monitor and enforce compliance by its Appointed Representatives with high standards of business conduct.

(c) A Firm must ensure that any of its Appointed Representatives carries on Regulated Business for which the Firm has accepted responsibility only:

(i) in circumstances where the representative does not carry on (or purport to carry on) in the UK any Investment Business for which the representative is not an Authorised or Exempted Person; and

(ii) in a way which ensures that the business for which the Firm has accepted responsibility is, and is held out as being, clearly distinct from any Financial Business which the representative carries on which is not Investment Business, unless that other Financial Business is covered by authorisation under an enactment as a bank or building society;

but a Firm does not break this requirement if it can show it has taken reasonable steps to comply with it.

Note:
This proviso applies to the whole of paragraph (c).

(d) Subject to any exceptions contained in the rules of an SRO of which it is a member, a Firm must ensure that its employment of any of its Appointed Representatives can be terminated only with the authority of its regulator.
Paragraph (d) of Rule 1.7(1) is subject to an exception in Rule 1.7(6) which permits termination of the appointment of an Appointed Representative in certain conditions without requiring IMRO's authority.

1.7(2) Responsibility of Firms for the acts of Appointed Representatives

A Firm is responsible, to the same extent as if it had expressly authorised it, for anything said, done, or omitted by its Appointed Representative in carrying on the Investment Business for which the Firm has accepted responsibility. In determining whether the Firm has complied with any of the Rules, anything so said, done or omitted by the Appointed Representative shall be treated by IMRO as having been said, done or omitted by the Firm.

1.7(3) Appointed Representatives: contracts for services

A Firm shall ensure that the contract for services under which it engages any Appointed Representative makes provision enabling the Firm to impose restrictions governing the Investment Agreements and the advice which may be the subject of the business of that Appointed Representative, as set out in Rules 1.7(4) and (5).

Note:
Under Rule 2.2(1) of this Chapter and Table 2.2(1), Part I, paragraph 3(i), IMRO must be notified of the appointment of an Appointed Representative or the cessation of that appointment and, under Table 2.2(1), Part I, paragraph 5(f), IMRO must be notified of his dismissal.

1.7(4) Appointed Representatives: Investment Agreements

An Appointed Representative may only procure or seek to procure anyone to enter into an Investment Agreement if that agreement:

(a) is with the Firm or an Associate of the Firm or entered into through the agency of the Firm; or

(b) is with any other person specified by the Firm; or

(c) relates only to certain kinds of Investment specified by the Firm.

1.7(5) Appointed Representatives: Investment advice

An Appointed Representative may only give advice in relation to Investments if that advice is about entering into an Investment Agreement:

(a) with the Firm or an Associate of the Firm; or

(b) with any other person specified by the Firm; or

(c) relating to Investments of a kind specified by the Firm.

1.7(6) Exception to paragraph (d) of Rule 1.7(1): Termination of Appointed Representative's contract

The provisions of paragraph (d) of Rule 1.7(1) do not apply to the termination of the contract for services of an Appointed Representative, and such contract may be terminated by either party, if the Firm either accepts responsibility for ensuring that no Customer suffers financial loss solely as a result of the termination, or is satisfied that such responsibility has been accepted by another person with appropriate resources or guarantees.

Note:
After termination of the contract for services of a Firm's Appointed Representative, the Firm continues to be responsible under Rule 1.7(2) for anything said, done or omitted by the Appointed Representative in carrying on Investment Business for which the Firm accepted responsibility before the termination of the contract.
1.8 DISQUALIFIED EMPLOYEES

1.8(1) Firms not to employ disqualified persons

31.10.97; RN43

Each firm must comply with its duty under Section 59(6) of the Act to take reasonable care not to employ or continue to employ anyone in contravention of a disqualification direction made under that Section and shall ensure that its Appointed Representatives do likewise.

Note:

If a Firm has any reason to suspect that an employee or potential employee may be subject to a disqualification direction, it may enquire of FSA whether this is the case.

TABLE

Table 1.3(2) Statement of Representation

The Statement of Representation, which a Firm is required to deliver to IMRO pursuant to Rule 1.3(2), must be in the form shown, and provide the information required, in the following pages.

Statement of Representation

For the period
Name of Firm
IMRO Reference

For IMRO use
Date received
Checked
Follow up required

NOTES FOR COMPLETION OF THIS STATEMENT

1. Firms are required to submit a Statement of Representation once a year for the period since the previous statement (in the case of new Firms, since the date of their admission to membership) to the Firm's Mid-Year Point or in special circumstances to an alternative date as agreed with IMRO. IMRO may determine that a Statement of Representation should be submitted more frequently where it deems this necessary.

2. To reflect the fact that responsibility for compliance is primarily that of the Firm's board (or equivalent), the answers to the questions must be approved by the board (or equivalent). Where, exceptionally, the Firm considers that full board approval would not be appropriate, it may seek permission from IMRO for Statements of Representation to be approved by a sub-committee of the board.

3. The statement, after approval, should be signed by both the Firm's Chief Executive and Compliance Officer and submitted to Regulated Firms Records at IMRO within two months after the date to which it is completed.

4. Where the answer to a question calls for further details or other information, these should be submitted on separate typed sheets.
5. Where the Firm is not a company, the statement should be approved by the body which manages the Investment Business of the Firm. In the case of a Local Authority this may be the Investment Panel or Committee rather than the full Council. In the case of large Partnerships, it may be a Management Committee rather than all of the Partners. In the case of Trustees or other individuals in association, the statement should be approved by a meeting of such Trustees or individuals and signed by two of them as well as by the Compliance Officer.

6. Words used in the statement have the same meaning as in the Definitions Schedule to IMRO’s Rules.

GUIDANCE NOTES

1 Business 1.1 If, in respect of any Investment Business, the Firm is authorised otherwise than by membership of IMRO (e.g. the Firm is a member of another SRO) or is regulated by an overseas Competent Authority in the conduct of ISD Investment Services carried on in a Host State or is exempt (e.g. an Appointed Representative), details should be provided and attention drawn to any change since the last statement.

1.2 Each of the Principles (Chapter I of the Rules) should be considered in relation to the Firm’s business before answering this question. IMRO needs to be informed of any areas where it is felt that there may have been a departure from the Principles and of the action taken to remedy the position.

3 Compliance 3A Compliance Procedures 3A.2 Where the answer to this question is NO, the details supplied should clearly identify the areas where the arrangements are not considered fully effective and the steps taken to remedy the situation.

3A.3 If the answer to this question is NO, the instances where the Compliance Procedures have not been observed must be identified and details given of the action taken and of the results of such action.

3B Compliance Monitoring 3B.1 In answering this question Firms should determine whether their compliance monitoring procedures include as a minimum:

a) review of continued adequacy of written procedures;

b) review of appropriateness of training material so far as it relates to compliance requirements;

c) test checks on documentation;

d) review of customer complaints, their follow-up and arrangements for handling complaints;

e) review of arrangements in respect of Clients' Money and Customers’ Assets to ensure that they are in accordance with Principle 7 and the Rules;

f) review of the records maintained by the Firm as required by the Rules; and

g) review of the steps taken to ensure that advice to Customers and execution of transactions with or for them are in accordance with Principles 1 to 6 and the Rules.

Where the answer to this question is NO, the details supplied should clearly identify the areas where it is considered that monitoring
procedures are inadequate and the steps taken to remedy the situation.

3C Records of Compliance

3C.2 The details to be supplied in answer to this question should include information on occurrences which have resulted in losses to Customers or in Customers being otherwise disadvantaged.

4B Customers' Assets

4B.1 In answering questions 4B.1 and 4B.2 Firms which have adopted the rolling basis of reconciliation under paragraph (a) of Rule 5.1(7) of Chapter II of the Rules should have particular regard to the need for adequate systems and controls to be able to carry out reconciliations on this basis.

5 Notifications

5.1 Details should be supplied with the Statement of Representation to fulfil the requirements of Rule 2.2(4) of Chapter IV (annual notification of Controllers).

7 Other

7.1 IMRO expects to be informed by a Firm where there has been any regulatory action, otherwise than by IMRO, of the nature described in the question either affecting the Firm or any Group company (see the Definitions Schedule of the Rules). A copy of any report or other document relating to such action should be supplied to IMRO.

10 ISD Firms

0.2 In answering question 10.2, ISD Firms should note the requirements relating to Client Money and Customers' assets where IMRO has provided permission for Host State requirements to be followed in accordance with Rule 5.2(3) and/or paragraph (a)(ii) of Rule 5.1(1) of Chapter II.

Statement of Representation

To: Investment Management Regulatory Organisation (`IMRO')

relating to the affairs of

................................................................................('the Firm')

from........................................(date) to.........................................(date)

('the Period')

approved by resolution of the board* of the Firm on ........................................(date) as being accurate in all material aspects to the best of the Firm's knowledge and belief.

* Signed

................................. Chief

Executive

................................. Compliance Officer

Dated ........................................

* See Notes

The following questions should be answered with a YES or a NO. If a particular question is inapplicable to the Firm (e.g. Client Money Regulations) both should be deleted and the reason for this stated. The Guidance Notes should be studied before answering the questions.

1 Business

*1.1 Has the Firm carried on any Investment Business in the Period other than its Permitted Business as set out in its current business profile? YES NO

*1.2 Is the Firm satisfied that it has...
conducted its Investment Business at all If NO, give details times in accordance with the Principles? If NO, give details

2 Special Conditions
2.1 Is the Firm subject to any Special Condition? YES NO
2.2 If YES, has the Firm complied with such Special Condition? YES NO If NO, give details

3 Compliance Arrangements
3A.1 Does the Firm have and make available to employees and Appointed Representatives written procedures incorporating rules of conduct reflecting IMRO’s requirements? YES NO If NO, give details

*3A.2 Does the Firm have arrangements which it is satisfied are adequate to comply with Principle 9 (Internal Organisation) and the Rules as regards its employees and Appointed Representatives? YES NO If NO, give details of action being taken to comply

*3A.3 Is the Firm satisfied that its arrangements for ensuring compliance (including complaints procedures) as required by the Rules have been effective throughout the Period? YES NO If NO, give details

3B Compliance Monitoring
*3B.1 Can the Firm demonstrate that it carried out regular and adequate monitoring procedures during the Period including where appropriate procedures relating to its Appointed Representatives? YES NO If NO, give details

3B.2 Is the Firm satisfied that adequate action has been taken to correct deficiencies? YES NO If NO, give details of action still being taken

3B.3 Has the Firm’s board been made aware at regular intervals of compliance monitoring findings? YES NO If NO, give details of board involvement

3C Records of Compliance
3C.1 Is the record of occurrences which have, or may have, involved a breach of the Rules complete and accurate? YES NO If NO, give details

*3C.2 Is there any material or significant matter or trend revealed by such record which should be drawn to IMRO’s attention? YES NO If YES, give details

3D Training and Competence
3D.1 Is the Firm satisfied that adequate arrangements are in place to fulfil the requirements of Rule 1.1.(10) of Chapter IV? YES NO If NO, give details

4 Client Money and Customers’ Assets Rules
4A Client Money
4A.1 Does the Firm have adequate systems of control to enable it to comply with the Client Money Regulations? YES NO If NO, give details of action being taken

4A.2 Was the Firm in compliance with the Client Money Regulations at all times during the Period? YES NO If No, give details of breaches

4B Customers’ Assets
*4B.1 Has the Firm adequate systems to enable it to comply with the Customers’ Assets Rules, other than the Client Money Regulations? YES NO If NO, give details of action being taken
<table>
<thead>
<tr>
<th>Section</th>
<th>Question</th>
<th>YES</th>
<th>NO</th>
<th>Details</th>
</tr>
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<tbody>
<tr>
<td>4B.2</td>
<td>Was the Firm in compliance with those Rules at all times during the Period?</td>
<td></td>
<td></td>
<td>If NO, give details of breaches</td>
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</tbody>
</table>
| 4C Reconciliations | Period in the manner and at the times required by the Rules:  
  a) Clients' Money reconciliations? | YES | NO |        |
|         | b) Customer Title Documents counts and reconciliations? | YES | NO |        |
| 4C.2    | Has IMRO been notified of any differences arising out of a reconciliation to which 4C.1 applies which the Firm has been unable to correct? | YES | NO | If NO, give details |
| 5 Notifications Requirements | *5.1 Has IMRO been notified of all Notifiable Events? | YES | NO |        |
|         | 5.2 Has any event specified as a Clearance Event taken place without the prior notification required by the Rules? | YES | NO | If YES, give details |
| 6 Appointed Representatives | 6.1 Has IMRO been supplied with up to date information about the names and addresses of the Firm's Appointed Representatives and details of the Investment Business conducted by such Appointed Representatives? | YES | NO | If NO, give details |
| 7 Other Regulatory Action | *7.1 Has the Firm or any company in the same Group as the Firm, during the Period, and in relation to its Investment Business, been the subject of any disciplinary measures or had its affairs investigated by any regulatory body (other than IMRO) in the UK or overseas? | YES | NO | If YES, give details |
| 8 Completeness of Information | 8.1 Is the Firm satisfied that all appropriate enquiries have been made of all those employees and Appointed of enquiries not made Representatives who should in the opinion of the Firm properly be consulted before answering the above questions? | YES | NO | If NO, give details of enquiries not made |
|         | 8.2 Are there any material or significant matters concerning the Firm's Permitted Business or its Compliance Procedures which have not been disclosed to IMRO in accordance with Principle 10 or the Rules? | YES | NO | If YES, give details |
|         | 8.3 Are there any matters relating to an earlier Statement of Representation or qualification in an auditor's report which remain unresolved? | YES | NO | If YES, give details |
| 9 Complaints | In respect of Significant Complaints Firms are required to provide the statistical information opposite as at the reporting date (Rule 3.1(5) of Chapter IV). |    |    |        |
| 10 ISD Firms | 10.1 Is the Firm an ISD Firm? | YES | NO | If YES, answer 10.2 |
|          | *10.2 Is the Firm satisfied that it has fully complied with the requirements of all relevant overseas Competent Authorities in respect of any ISD Investment Services which the Firm has carried on in a Host State? | YES | NO | If NO, give details |

* See Notes
### COMPLAINTS STATISTICS

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Total Complaints received in this period</th>
<th>Complaints outstanding at the reporting date</th>
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<td>(a) General fitness complaints</td>
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<td>(b) Advertising</td>
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<td>(c) Customer agreement</td>
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<td>(d) Inadequate knowledge of customer</td>
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<td>(e) Inadequate/misleading product disclosure</td>
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<td>(f) Product suitability</td>
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<td>(g) Unreasonable sales conduct</td>
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<td>(h) Best execution</td>
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<tr>
<td>(i) Polarisation</td>
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<td>(j) Remuneration/charges</td>
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<td>(k) Churning</td>
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</tr>
<tr>
<td>(m) Complaints relating to records/documents</td>
<td>______</td>
<td>______</td>
</tr>
<tr>
<td>(n) Client Money/Customer Assets</td>
<td>______</td>
<td>______</td>
</tr>
<tr>
<td>(o) Unit Trust/ISA/PEP/OEIC Regulations [RN48]</td>
<td>______</td>
<td>______</td>
</tr>
<tr>
<td>(p) Other conduct of business Rule breaches</td>
<td>______</td>
<td>______</td>
</tr>
<tr>
<td>(q) Dispute about instructions</td>
<td>______</td>
<td>______</td>
</tr>
<tr>
<td>(r) Poor administration</td>
<td>______</td>
<td>______</td>
</tr>
<tr>
<td>(s) Poor investment management</td>
<td>______</td>
<td>______</td>
</tr>
<tr>
<td>(t) General complaints</td>
<td>______</td>
<td>______</td>
</tr>
</tbody>
</table>

**Notes**

1. Complaints against Appointed Representatives should be aggregated in the statistics.
2. Where a Complaint relates to more than one category, the most appropriate single
3. “Settled” means settled to the satisfaction of the Complainant.

---

### Table 1.6(2) Records

Table 1.6(2) Records

9.2.98; RN44

#### PART I

**TRANSACTIONS**

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Record to be made</th>
<th>Time when the record is to be made</th>
<th>Minimum period of retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Receipt of dealing instructions from a customer</td>
<td>(a)Investment and number or total value of units in the investment</td>
<td>on receipt</td>
<td>5 years</td>
</tr>
<tr>
<td>2. Decision to deal for a Discretionary Managed Portfolio</td>
<td>(a) Investment and number or total value of units in the Investment;</td>
<td>As soon as practicable after the decision</td>
<td>5 years</td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
<td>-------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>(b) nature of transaction (including any price limit);</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td>(c) date and time of decision;</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td>(d) Customer’s name or reference.</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
</tbody>
</table>

A timed recording of a telephone conversation may be an adequate record of instructions received from a Customer by a representative of the Firm speaking and listening from the floor of an exchange.

<table>
<thead>
<tr>
<th>3. another officer or employee of the Firm) to deal</th>
<th>(a) name of person instructed;</th>
<th>on giving the instructions</th>
<th>5 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) terms of instruction;</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td>(c) date and time instructions given.</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
</tbody>
</table>

Where the receipt and transmission of instructions (or the recording of a decision and the transmission of instructions) are simultaneous, for example, if instructions are relayed orally as and when received or if they are simultaneously recorded on a dealing instruction ticket, the information required under paragraphs 1, 2 and 3 may be complied with in a single process if recording. However, the nature of the record should show clearly where this is the case.

<table>
<thead>
<tr>
<th>4(i) Generally effecting transactions by the Firm (for</th>
<th>(a) date and (where available) time of transaction;</th>
<th>on effecting the transaction</th>
<th>5 years</th>
</tr>
</thead>
</table>
itself or for one or more of its Customers) or on its instructions (where subparagraph 4(ii) does not apply) or, if the information has to be supplied by somebody else, on receipt of information

| (b) Investment and number of units in the Investment; | " | " |
| (c) price and other terms (including exchange rate details if relevant); | " | " |
| (d) parties; | " | " |
| (e) whether the Firm was dealing as principal as well as on behalf of its Customer. | " | " |

Information provided by somebody else must be recorded as it is supplied. If the information is incomplete, that fact must be recorded and the missing information recorded as it is received.

Any corrections of information supplied to it must also be recorded.

(ii) Effecting transactions by personal communication on the floor of a Recognised Investment Exchange

those records required to be made by the rules of the relevant exchange; when the rules of the relevant exchange require 5 years

(iii) Effecting transactions in Investments which are not Readily Realisable Investments

(a) Investment and number or total value of units in the Investment; on effecting the transaction 5 years after the transaction is effected

(b) price.

5(i) Intended allocation between Customers of aggregated transactions

intended basis of allocation. before or as soon as practicable after the transaction 5 years
(paragraph (a) of Rule 3.9(2) of Chapter II) | is effected |
---|---
5(ii) Intended allocation between the Firm and its Customers of aggregated transactions (paragraph (b) of Rule 3.9(2) of Chapter II) | intended basis of allocation. | before the transaction is effected | 5 years

6(i) Effecting aggregated transactions on behalf of more than one Customer | (a) names of all of the Customers; or on effecting the transaction or, if the information has to be supplied by somebody else, on receipt of information | 5 years

(b) a statement that the transaction was effected for Discretionary Managed Portfolios generally; or

(c) a statement that a stated proportion was effected for Discretionary Managed Portfolios.

(ii) Allocating aggregated transactions between Customers | (a) date and time; on allocation " | 5 years "

(b) Investment; "

(c) identity or designation and account number of each Customer; "

(d) amounts allocated to each respective Customer "

7. Reallocation (Rule 3.9(3) of Chapter II) | reason for reallocation. | on reallocation | 5 years

PART II
SEPARATE RECORDS FOR EACH CUSTOMER

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Record to be made</th>
<th>Time when the record is to be made</th>
<th>Minimum period of retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>Holdings for Managed Portfolios</td>
<td>each Investment in the Customer’s portfolio and how his interest in each Investment is identified.</td>
<td>from the time when the Firm first holds any Investment for the Customer</td>
<td>3 years after the Firm last held the relevant Investment for the Customer</td>
</tr>
<tr>
<td>2. Transactions</td>
<td>for a Customer who is not an Execution-only Customer, each transaction effected with him or on his behalf.</td>
<td>on effecting the transaction</td>
<td>3 years except in the case of records which are or may be relevant to the recommendation or sale of transfers or opt-outs from Occupational Pension Schemes, and transactions involving Appropriate Personal Pension Policies or Contracts, effected since 29 April 1998, in which case such records must be kept indefinitely.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>3. Custody of Customer Investments</td>
<td>how they are kept.</td>
<td>on taking custody</td>
<td>3 years from the time when the Firm last had responsibility for custody</td>
</tr>
<tr>
<td>(Rule 5.1(6) of Chapter II)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Income from Customer’s Investments</td>
<td>amount, distinguishing income received from each different source.</td>
<td>on receipt</td>
<td>3 years</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Private Customer’s personal and financial circumstances (Rule 3.1(1) of Chapter II)</td>
<td>for a Private Customer: (a) facts which the Firm is required by paragraph (a) of Rule 3.1(1) to take into account in determining the suitability of a personal recommendation or discretionary transaction for a Private Customer</td>
<td>as soon as the Firm becomes aware of the facts</td>
<td>3 years after the Firm performed its last service for the Customer except in the case of records which are or may be relevant to the recommendation or sale of transfers or opt-outs from Occupational Pension Schemes, and transactions involving Appropriate Personal Pension Policies or Contracts, effected since 29 April 1998, in which case such records must be kept indefinitely.</td>
</tr>
<tr>
<td>Event or Subject</td>
<td>Record to be made</td>
<td>Time when the record is to be made</td>
<td>Minimum period of retention</td>
</tr>
<tr>
<td>-----------------</td>
<td>-------------------</td>
<td>------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>1. Company or Appointed Representatives</td>
<td>(a) name;</td>
<td>on appointment</td>
<td>3 years from cessation of appointment</td>
</tr>
<tr>
<td></td>
<td>(b) categories of transaction on which he is competent to advise Customers;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td></td>
<td>(c) the nature of his training, experience and qualifications on the basis of which he is judged to be competent so to advise.</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
</tbody>
</table>

### Part III
**Other Records about Persons**

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Record to be made</th>
<th>Time when the record is to be made</th>
<th>Minimum period of retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Company or Appointed Representatives</td>
<td>(a) name;</td>
<td>on appointment</td>
<td>3 years from cessation of appointment</td>
</tr>
<tr>
<td></td>
<td>(b) categories of transaction on which he is competent to advise Customers;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td></td>
<td>(c) the nature of his training, experience and qualifications on the basis of which he is judged to be competent so to advise.</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
</tbody>
</table>
(d) date and reason for departure.

These records must be kept in a register or other distinctive form by the Firm (or a Company within the same Group) or, in the case of the employees and Officers of an Appointed Representative, by the Firm or the Appointed Representative provided that the Firm has access to those records at all reasonable times. If the Firm is to keep the records, they must be kept at its principal place of business or at a local office if they are readily available for examination at the principal place of business.

Note: If the information required under (d) above has already been provided under the Rules relating to individual Registration, then such provision will constitute compliance with this requirement.

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Record to be made</th>
<th>Time when the record is to be made</th>
<th>Minimum period of retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Compliance Procedures (Rule 1.1(3) of Chapter IV)</td>
<td>what procedures are established and maintained. Copies of the written Compliance Procedures,</td>
<td>when established or amended</td>
<td>as long as the Firm remains regulated by IMRO</td>
</tr>
</tbody>
</table>

### PART IV
COMPLIANCE AND COMPLAINTS
or that part of those procedures relevant to the Investment Business carried on by a given office of the Firm, must be kept at that office.

Where the Firm has been authorised under Section 31 of the Act, a copy of the recorded Compliance Procedures and a translation of it into English must be kept at the place notified to the Secretary of State under Section 32(2)(c) of the Act.

<table>
<thead>
<tr>
<th>2. Alleged breaches of the Rules</th>
<th>(a) full and complete details of occurrences which have, or in the opinion of the Compliance Officer or any Customer may have, involved a breach of the Rules other than a breach which the Compliance Officer believes on reasonable grounds to be immaterial; when the event is known by the Firm</th>
<th>3 years from the event</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(b) steps taken.</td>
<td>&quot;</td>
</tr>
<tr>
<td>3. Permitted Business</td>
<td>complete records relating to the scope of the Firm's Permitted Business and activities affecting its Permitted Business. These records must be in a form capable of being checked or audited and otherwise be in accordance with IMRO's requirements as to form and manner of retention.</td>
<td>on admission to membership and thereafter</td>
</tr>
<tr>
<td>4. Disciplinary action</td>
<td>(a) names of any employees disciplined by a Firm:</td>
<td>when disciplinary action taken</td>
</tr>
<tr>
<td></td>
<td>(i) for a breach of the Rules; or</td>
<td>&quot;</td>
</tr>
<tr>
<td></td>
<td>(ii) in connection with any other conduct which may reasonably be expected to affect the conduct of the Firm's Investment Business;</td>
<td>&quot;</td>
</tr>
<tr>
<td></td>
<td>(b) particulars of (i) the offence;</td>
<td>&quot;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&quot;</td>
</tr>
</tbody>
</table>
(ii) the steps taken to discipline the employee.

5. Complaints about Permitted Business

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Record to be made</th>
<th>Time when the record is to be made</th>
<th>Minimum period of retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Advertisements issued or approved by a Firm</td>
<td>(a) advertisement (including a record of any risk warning or disclosure statement made or given in or in connection with the advertisement);</td>
<td>on issue or approval</td>
<td>3 years from the date of latest publication</td>
</tr>
<tr>
<td></td>
<td>(b) name of the person or persons who checked the advertisement for compliance with Rule 1.1(4) of Chapter II;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td></td>
<td>(c) date on which the advertisement was checked for compliance with Rule 1.1(4) of Chapter II;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td></td>
<td>(d) evidence used to support any statement in the advertisement relevant to the product or service being advertised which purports to be a statement of fact or</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
</tbody>
</table>
how access to such evidence may be obtained.

2. Published Recommendations issued, caused to be issued or approved by a Firm

(a) Published Recommendation (including a record of any risk warning or disclosure statement made or given in or in connection with the Published Recommendation);

(b) evidence used to support any statement which is stated or implied to be based on research or analysis or how access to such evidence may be obtained.

on issue or approval 3 years from the date of latest publication

PART VI
OPERATORS OF REGULATED COLLECTIVE INVESTMENT SCHEMES

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Record to be made</th>
<th>Time when the record is to be made</th>
<th>Minimum period of retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Significant influence over Company management</td>
<td>in respect of each Body Corporate whose securities carrying voting rights are owned by any Regulated Collective Investment Scheme of which the Firm is the Operator, the number of those securities held by the Firm or owned by any other Regulated Collective Investment Scheme operated by it;</td>
<td>from the time when the holding is first acquired</td>
<td>3 years after the asset ceases to be property of the Scheme</td>
</tr>
</tbody>
</table>

PART VII
OPERATORS OF UNREGULATED COLLECTIVE INVESTMENT SCHEMES

<table>
<thead>
<tr>
<th>Event or Subject</th>
<th>Record to be made</th>
<th>Time when the record is to be made</th>
<th>Minimum period of retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Scheme property</td>
<td>for each Scheme, each asset included in the property of the Scheme and how the interest in that asset is identified;</td>
<td>from the time when the asset becomes property of the Scheme</td>
<td>3 years after the asset ceases to be property of the</td>
</tr>
<tr>
<td>Event or Subject</td>
<td>Record to be made</td>
<td>Time when the record is to be made</td>
<td>Minimum period of retention</td>
</tr>
<tr>
<td>-----------------</td>
<td>------------------</td>
<td>-----------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>1. Enquiries leading to advice or discretionary management</td>
<td>Results of Firm's enquiries about Packaged Products which led it to advise a Private Customer to buy a Packaged Product, or to buy one for him in the exercise of discretion, having regard to the requirements of Rule 6.3(1) or (2) of Chapter II.</td>
<td>when the results of the enquiries are obtained</td>
<td>3 years except in the case of records which are or may be relevant to the recommendation or sale of transfers or opt-outs from Occupational Pension Schemes, and transactions involving Appropriate Personal Pension Policies or Contracts, effected since 29 April 1988, in which case such records must be kept indefinitely</td>
</tr>
<tr>
<td>2. Service on the Firm of a notice of cancellation</td>
<td>(a) service of the notice;</td>
<td>when the Firm first came to know of service</td>
<td>3 years</td>
</tr>
<tr>
<td></td>
<td>(b) date when service became known to the Firm.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Reasons for recommendations in relation to a Life Policy</td>
<td>advice given to Customers pursuant to paragraph (a) of Rule 6.3(6) of Chapter II</td>
<td>when the advice is given</td>
<td>3 years</td>
</tr>
<tr>
<td>4. Recommendation to effect Pension Transfer</td>
<td>advice given to Customer pursuant to paragraph (a) of Rule 6.3(6) of Chapter II</td>
<td>when the advice is given</td>
<td>indefinitely</td>
</tr>
</tbody>
</table>
APPENDIX 1.1(10) THE TRAINING AND COMPETENCE CODE

31.1.99; RN48

In order to comply with the requirements of Rule 1.1(10), Firms' and their Appointed Representatives' arrangements for training and competence should at least include the following:

1 Recruitment

(a) Arrangements to cover recruitment, including the vetting of applicants for employment and the taking up of references.

(b) A qualification or exemption gained whilst working for one Firm may be recognised by another Firm to which an individual has transferred. A Firm should make this information available to a new employer.

2 Identification

Arrangements to identify employees who on a day-to-day basis supervise or control Administration Functions and each Company Representative and employee engaged in either the discretionary or advisory management of Investments or giving advice on Investments, and, in particular, those who have not attained Threshold Competence (i.e. Trainees).

Note:

Personnel not employed in connection with the Firm's Investment Business, Company Representatives and employees passing on or executing instructions and Company Representatives and employees solely introducing products and services to Customers fall outside the scope of this Appendix. However, such personnel should be given adequate training or briefing on the role they will be performing, including the limitations of that role.

3 Induction Training and Training for Transferees

(a) All new recruits should undergo appropriate Induction Training. Recruits from overseas should be trained in relevant UK regulatory requirements and UK market and other practices.

(b) Assessment and, if necessary, the appropriate training should be provided for staff transferred from other functions within a Firm to ensure that for staff other than Trainees they are at least at the level of Threshold Competence in the new area of activity.

4 Training Programme for Trainees

Provision of a training programme appropriate to each Trainee. The programme should cover all main aspects of the Trainee's work and should include the acquisition of:

(a) appropriate knowledge (both general and job specific);

(b) practical experience, through a planned period of 'on-the-job' training so that Trainees can gain practical experience and develop the ability to apply such knowledge with the skills necessary for undertaking their responsibilities competently.
No maximum or minimum time is set for such programmes. This will depend on the individual concerned and the activity involved.

5 Supervision and Assessment

(a) Arrangements for the supervision and assessment of Trainees to ensure that adequate standards of competence are achieved and that Trainees do not give advice or provide other investment services beyond their competence. Accordingly, these arrangements should include the provision of Direct Supervision until Threshold Competence is reached. Direct Supervision should be carried out as part of the personnel and line management functions. As training progresses, gradual relaxation of Direct Supervision may be appropriate, including permitting the Trainee to perform some duties unaccompanied or without detailed review.

Note:
Upon reaching Threshold Competence, employees and Company Representatives will continue to work under the Firm’s management control and supervisory arrangements.

(b) A Trainee engaged in providing advice on Packaged Products, Collective Investment Schemes, ISAs or PEPs, whether as a tied agent or an independent adviser, may be permitted to conduct unaccompanied Customer contacts provided the individual has been assessed by the Firm as being capable of competently doing so without prejudicing the interests of Customers and has demonstrated by examination or exemption a minimum knowledge of the regulations and the financial services industry. However, Direct Supervision will still be necessary until the requirements of Threshold Competence have been met. Similarly, for Trainees engaged in fund management or other Investment Business, the supervisory regime may be partially relaxed if a sufficient level of competence has been demonstrated. [RN48]

6 Continuing Competence and Updating of Knowledge

Appropriate arrangements for Company Representatives and employees to ensure their continuing competence for the work undertaken. This should include arrangements for refreshing and updating technical and other relevant knowledge, including information on industry and regulatory developments. Arrangements may take the form of structured or unstructured learning, or both, as appropriate, but should be linked with the staff appraisal and development process.

7 Records

The maintenance of sufficient records to demonstrate compliance with Rule 1.1(10) as reflected in the standards set by this Appendix or equivalent standards. These should include records which for each Company Representative and employee should show:

(a) details of the individual’s qualifications (including any valid exemptions, especially from the examination requirement of paragraph (b) of Rule 1.1(10), together with the grounds for exemption) and experience;

(b) details of assessments undertaken and training courses attended.

These records should be kept for the duration of a Company Representative’s or employee’s employment or of an Appointed Representative’s contract for services and for three years after the employment or contract is terminated.

Note:
Firms are reminded of their obligations under Part III of Table 1.6(2) in relation to records about persons.

8 Existing Staff and Experienced New Entrants

An assessment of existing staff and new entrants against the same standards as those set by the Firm for Trainees. This assessment should take into account the nature and extent of practical experience gained and its relevance to the job to be undertaken. For those who are assessed as having reached or exceeded Threshold Competence, Firms will not need to have regard to the provisions of this Appendix which apply to Trainees.

SECTION 2 Notifications

2.1 CLEARANCE REQUIRED FOR CERTAIN EVENTS

2.1(1) Clearance Events

30.11.91

This Rule applies to any event designated as a Clearance Event in Part I of Table 2.1(1).
2.1(2) **Requirement for notification**

1.2.96; RN23

Subject to Rule 2.1(4), notification of a Clearance Event containing the information specified in Part II of Table 2.1(1) must be made, in such form as may be prescribed by IMRO, before such an event occurs.

2.1(3) **Clearance procedure: the Waiting Period: Stop Notices**

1.2.96; RN23

Upon notification of a Clearance Event, IMRO shall either:

(a) inform the Firm in writing within the Waiting Period that it has no objection and the Firm may allow the event to occur; or

(b) seek further information from the Firm or from a third party in writing and, in respect of a Clearance Event designated in paragraphs 1 and 2 of Part I of Table 2.1(1), extend the Waiting Period, and if thought necessary re-extend it, for such time as IMRO may reasonably require to obtain and consider that information; or

(c) issue a Stop Notice to the Firm requiring that the event shall not occur.

2.1(4) **Clearance Event not in Firm's control**

1.2.96; RN23

(a) If the occurrence of a Clearance Event falling within paragraphs 1 and 2 of Part I of Table 2.1(1) is not in the Firm's control, the Firm must nevertheless take all reasonable steps to prevent the event occurring before IMRO has made a determination or the Waiting Period has elapsed.

(b) In respect of a Clearance Event falling within paragraph 3 of part I of Table 2.1(1), where the event is occasioned by circumstances beyond the Firm's control, the Firm must notify IMRO, as soon as practicable, either before or after the event occurs.

2.1(5) **Expiry of Waiting Period**

1.2.96; RN23

In relation to a Clearance Event falling within paragraphs 1 and 2 of Part I of Table 2.1(1), if upon the expiry of the Waiting Period, including any extension, IMRO has neither indicated assent nor issued a Stop Notice, the Firm may let the event occur.

2.1(6) **Stop Notice: effect on membership**

16.2.96; RN24

Upon receipt of a Stop Notice, the Firm may require IMRO to treat the notification of the Clearance Event as if it were an application for membership on the basis of the circumstances that would prevail if the event were to take place; the provisions of the Admission Procedures will then apply, subject to any modifications that the Admissions Committee may specify. If the event, not being in the Firm's control, has occurred before IMRO has made a determination, a Stop Notice shall have effect as a notice that membership will be reconsidered as if an application had been made on the basis of the new circumstances and all of the provisions of the Admission Procedures shall apply subject to such modifications as the Admissions Committee may specify.

*Note:*

Deliberate breach of a Stop Notice would bring into question the Firm's fitness and properness.

### 2.2 NOTIFICATIONS REQUIRED TO BE MADE TO IMRO

#### 2.2(1) Notifiable Events

30.11.91

A Firm must, subject to Rule 2.2(3) below, make a written notification to IMRO of any event or circumstance designated as a Notifiable Event in Table 2.2(1).

#### 2.2(2) Form and contents and time limits

30.11.91
Subject to Rule 2.2(3) below, the notification referred to in Rule 2.2(1) must be made within the time and contain the particulars specified in Table 2.2(1) and must also be in such form as may be prescribed by IMRO.

2.2(3) Financial notification in compliance with the rules of another SRO

1.7.95; RN13

If a Firm is also a member of another SRO, it need not make the notifications required by paragraphs 9 to 11 of Table 2.2(1), provided that it provides IMRO with copies of any equivalent notifications made to that SRO.

2.2(4) Annual notification of Controllers

1.1.96; RN18

A Firm must, at intervals of no more than one year, notify IMRO in writing of the name of each person who, to the knowledge of the Firm, is a Controller of the Firm at the date of such notification, specifying to the best of the Firm's knowledge in relation to each such person:

**Note:**

Firms should note that this notification must be made as part of the Statement of Representation.

(a) what percentage of the shares in the Firm, or another Body Corporate of which the Firm is a Subsidiary, he holds, directly or indirectly, whether alone or with any associate or associates; and

(b) what percentage of the voting power he is entitled, directly or indirectly, and whether alone or with any associate or associates, to exercise or control the exercise of, at any general meeting of the Firm, or another Body Corporate of which the Firm is a Subsidiary.

**TABLE**

**Table 2.1(1) - Clearance Events**

<table>
<thead>
<tr>
<th>Event</th>
<th>Information to be notified to IMRO</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PART I</strong></td>
<td>Nature of Event</td>
</tr>
<tr>
<td>1. Controller</td>
<td>where any person is to become or cease to be a Controller of the Firm or where a Controller of the Firm decides to increase his holding so that the proportion of the voting rights or of the capital that he holds or controls would reach or exceed 20, 33 or 50% or so that the Firm would become his Subsidiary.</td>
</tr>
<tr>
<td>2. Chief Executive</td>
<td>where any person is to become the Chief Executive of the Firm.</td>
</tr>
<tr>
<td>3. Branch of an ISD Firm in a Host State</td>
<td>any change in the particulars notified to IMRO in accordance with paragraphs (b) (i) to (iii) of Rule 2.1 of Chapter VII, which does not require an amendment to the Firm’s Permitted Business.</td>
</tr>
</tbody>
</table>

**Note:** See Note to Rule 2.1(1) of Chapter VII.
1. Change of Controller

the fact that a change as set out in paragraph 1 of Part I above is to occur and, in the case of a person becoming a Controller:

(i) its name;
(ii) a description of its principal business;
(iii) the names of its Directors, partners and Managers, if any;
(iv) the address of its registered or head office (in the case of a Body Corporate) or its principal place of business (in the case of a partnership or an unincorporated association) or its address (in the case of an individual); and
(v) the percentage of the voting power which it will, on becoming a Controller, be able to exercise, or control the exercise of, at any general meeting of the Firm.

2. Change of Chief Executive

the fact that a person is to become the Chief Executive of the Firm and his name.

Note: A completed registration form (IRI) for the incoming Chief Executive must be submitted unless one has been previously received by IMRO and there has been no material change in the information supplied.

3. Change in particulars of a branch of an ISD of Rules 2.1(1) of Chapter VII Firm in a Host State which does not require an amendment to a Firm's Permitted Business.

details of the change in the particulars relating to the branch notified to IMRO in accordance with paragraphs (b) (i) to (iii) of Rules 2.1(1) of Chapter VII

---

### Table 2.2(1) Notifiable Events

<table>
<thead>
<tr>
<th>EVENT</th>
<th>TIME WITHIN WHICH NOTIFICATION TO BE GIVEN</th>
<th>PARTICULARS TO BE GIVEN</th>
</tr>
</thead>
<tbody>
<tr>
<td>PART I</td>
<td>A: CONSTITUTION</td>
<td></td>
</tr>
<tr>
<td>1. Changes made as regards the Firm in:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) name;</td>
<td>forthwith</td>
<td>details of the change including the date such change occurs</td>
</tr>
<tr>
<td>(b) any business name under which it carries on its Permitted Business;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td>(c) address of its head office or principal place of business; (d) address of its registered office; or</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
</tbody>
</table>
(e) address for service of notices or documents, if different from (d).

**B: CONTROL AND MANAGEMENT**

2. When the Firm becomes a Subsidiary of another company, not more than 7 days after the event or the date on which the Firm becomes aware of the event, whichever is the later.

3. When in relation to the Firm a person becomes or ceases to be:

   (a) **DELETED**

   (b) a Controller;

**Note:** Any change which will result in any person becoming or ceasing to be a Controller, or where a Controller decides to increase his holding so that the proportion of the voting rights or of the capital that he holds or controls would reach or exceed 20, 33, or 50% or so that the Firm would become his Subsidiary is also a Clearance Event.

Regulations 41 to 47 (inclusive) of the ISD Regulations place certain statutory obligations on any person who intends to become a "controller" (as defined in the ISD Regulations) of an ISD Firm or to increase his controlling holding so that it reaches or exceeds 20, 33 or 50% or so that the ISD Firm would become his Subsidiary, to obtain prior clearance from regulators. Any person who intends to cease to be a "controller", or to decrease his controlling holding so that it falls below 20, 33 or 50% or so that the ISD Firm would cease to be his Subsidiary, must provide regulators with prior notice of his intention to do so. Failure to comply with these provisions of the ISD Regulations could result in the imposition of sanctions against that person.

ISD Firms are referred also to Rule 2.1(5) of Chapter VI if they become aware of any further, or other,
"close links" (as defined in the Financial Institutions (Prudential Supervision) Regulations 1996) with any person.

(c) the Chief Executive;

**Note:** Where anyone is to be appointed as Chief Executive, a Clearance Event will occur.

| (d) a Director; | not more than 7 days after the event or the date on which the Firm becomes aware of the event, whichever is the later |
| (e) a Manager of the Firm's Permitted Business; | |
| (f) the Compliance Officer; | |
| (g) the Finance Officer; | |
| (h) the Company secretary or equivalent; | |
| (i) an Appointed Representative; or | not more than 7 days after the event or the date on which the Firm becomes aware of the event, whichever is the later |

- the fact that a person has ceased to be the Chief Executive of the Firm and:
  - (i) the date on which he/ she ceased to be Chief Executive; and
  - (ii) the reason(s) for the change.

- the reason(s) for, and the date of, change, together with the name of the person concerned.

| (j) the Company secretary or equivalent; | |

- the fact that a person has either:
  - (a) become; or
  - (b) ceased to be an Appointed Representative of the Firm and:
    - (i) its name;
    - (ii) the address of its registered or head office (in the case of a Body Corporate) or its principal place of business (in the case of a partnership or an unincorporated association) or his address (in the case of an individual);
    - (iii) its telephone number; and
    - (iv) its registration number and country of incorporation (in the case of a Body Corporate).

**Note:** When supplying the above information to INRO Firms are required to submit completed Form AR2.

4. Changes in the entitlement of any person to exercise, or control the exercise of, the voting power at any general meeting of the Firm or any Body Corporate of which the Firm is a Subsidiary and, not more than 7 days after the event or the date on which the Firm becomes aware of the event, whichever is the later

- details of the change.
if different, the percentage of capita which it holds, if before or after any such change, that person was a Controller.

**Note:** This refers to a situation where a person is a Controller, and continues to be a Controller, but the level of his control changes.

**Note:** Under Rule 2.2(4) a Firm is required to make an annual notification of Controllers of the Firm.

## C: STATUS OF PERSONNEL

5. The dismissal of, or the occurrence of any of the events set out in Part II in respect of, any of the following in relation to the Firm:

| (a) Chief Executive; | forthwith upon the Firm becoming aware of the event | date and reason for the dismissal or details of the event |
| (b) Director; | " | name of person concerned and date and reasons for dismissal or details of the event |
| (c) Manager of the Firm’s permitted Business; | " | " |
| (d) Compliance Officer; | " | " |
| (e) Finance Officer; | " | " |
| (f) Appointed Representative. | " | " |

6. The dismissal of, or the occurrence of any of the events set out in paragraphs (b) to (h) of Part II of this Table in respect of:

| (a) a Company Representative of the Firm; | forthwith upon the Firm becoming aware of the event or the name of the Company Representative concerned |
| (b) a Company Representative of an Appointed Representative of the Firm. | " | " |

## D: STATUS

7. The occurrence of any event set out in Part III of this Table.

| forthwith | details of the event |
E: AUDITORS

8. The occurrence of any of the following in relation to the Firm’s auditor:

(a) the appointment of the auditor;

(b) a decision to secure a change;

(c) the resignation, removal or non-reappointment; or

Note: When making a notification to IMRO under 8(c) Firms are also required to observe the requirements of paragraph (c) of Rule 6.1(10) of Chapter V.

(d) the expiry of a period of two weeks without an auditor in office.

F: FINANCIAL REQUIREMENTS

Note: Where Rule 2.2(3) of Chapter IV applies, a Firm need not make the notifications required by paragraphs (9) to (11) below, provided that it submits to IMRO copies of any equivalent notifications made to that SRO.


10. When the Firm is not able to:

(a) submit an Annual or Quarterly Financial Return or a Statement of Representation by the due date;

(b) comply with, or demonstrate compliance with, the Financial Return Rules, the Financial Resources Rules or the Accounting Records Rules;

(c) make any payment to a Recognised Investment Exchange or Recognised Clearing House or make any other significant payment, by the due date.
11. When changes are made to the Firm’s Accounting Reference Date.

**Note:** On receipt of such a notification, IMRO will advise the Firm of the revised dates to which Financial Returns and other returns are required to be prepared pursuant to Rules 3.55(1) to 3.5 of Chapter V.

not less than 15 business days prior to the event

date of proposed new Accounting Reference Date and date on which proposed change is to come into effect

---

**G: COMPLAINTS**

12. The conclusion of any investigation or adjudication proceedings

**Note:** Such proceedings would include those relating to Complaints concerning a Firm’s Permitted Business whether made to the Investment Ombudsman or any other person or body providing adjudication or conciliation services such as the PIA Ombudsman Bureau, the Pensions Ombudsman or OPAS Limited.

promptly

a statement of the fact

13. (a) Action taken by the Firm pursuant to paragraph (c) of Rule 3.1(4) of Chapter IV in response to any Significant Complaint which has not been settled to the Complainant’s satisfaction two months after the Firm’s receipt of the complaint.

forthwith

details of the action taken

(b) Notice, pursuant to paragraph (f) of Rule 3.1(4) of Chapter IV, of the terms of settlement of a Significant Complaint (of which notice has been given under paragraph of (c)(i) Rule 3.1(4) of Chapter IV).

forthwith

statement of the terms of settlement

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**H: CUSTOMER ASSETS**

14. (a) When the Firm has not carried out reconciliations in accordance with paragraph (a) of Rule 5.1(7) of Chapter II or, having done

forthwith

a statement of the fact
so, is unable to correct any differences (other than immaterial differences) pursuant to paragraph (d) of Rule 5.1(7) of that Chapter.

(b) When the Firm intends to change the basis on which it performs Reconciliations pursuant to paragraph (e) of Rule 5.1(7) of Chapter II.

forthwith a statement of the fact

I: PENSIONS TRANSFERS

15. When any Pensions Transfers have been effected.

at the end of each quarter a statement of the number of transactions distinguishing between transactions which involve opting out of an Occupational Pension Scheme and those which do not

16. When any Pension Transfers have been effected exclusively by correspondence.

at the end of each quarter a statement of the number of such transactions

17. When execution-only transfers in a single quarter exceed 1 per cent. of the total number of Pension Transfers effected in that quarter.

at the end of each quarter a statement of the fact, the number of execution-only transactions and the total number of Pension Transfers

18. When the number of transactions effected contrary to the recommendation of the Firm exceeds 1 per cent. of the total number of Pension Transfer transactions effected in that quarter.

at the end of each quarter a statement of the fact, the number of transactions effected contrary to the recommendation and the total number of Pension Transfers

J: INSIDER DEALING

19. If a Firm believes that it has, or may have, effected a transaction falling within Rule 3.14(1) of Chapter II.

forthwith a statement of the fact

K: NEGATIVE BOXES

20. The events provided for in paragraph (b) of Rule 11.2(2), and paragraph (a) of Rule 15.2(3), of Chapter II.

forthwith upon the trustee or Depositary becoming aware of the circumstances a statement of the reason for and circumstances of the event, together with details of corrective action taken.
### PART II

The following are the events referred to in paragraphs 5 and 6 of this Table:

(a) a change of name;

(b) the bringing of a prosecution for, or a conviction of, any offence involving fraud or other dishonesty;

(c) the bringing of a prosecution for, or a conviction of, any offence under legislation relating to banking, Building Societies, companies, consumer credit, credit unions, friendly societies, industrial and provident societies, insolvency, insurance and other financial services;

(d) the presentation of a petition for a bankruptcy order or an award of sequestration;

(e) the refusal of any application for, or revocation of, any licence under the Consumer Credit Act 1974;

(f) the refusal of any application for, or revocation of, any registration under the Insurance Brokers (Registration) Act 1977;

(g) the imposition of disciplinary measures or sanctions by any regulatory authority in relation to the individual’s professional or business activities; and

(h) the making of an order by a court disqualifying that individual from serving as Director of a company or from being concerned with the management of a company.

### PART III

The following are the events referred to in paragraph 7 of this Table:

(a) the passing of a resolution, or the presentation of a petition, for the winding-up of the Firm (or, where the Firm is a Body Corporate, a Holding Company of the Firm) otherwise than for the purposes of a reconstruction the terms of which have previously been approved in writing by IMRO;

(b) where the Firm is a Body Corporate, the appointment of a receiver, administrator, administrative receiver or trustee of the Firm or of all or any part of the Firm’s undertaking or assets;

(c) the making of an arrangement or composition with creditors of the Firm;

(d) where the Firm is constituted as a partnership, trust or unincorporated association, an application to dissolve, terminate or wind-up the partnership, trust or unincorporated association otherwise than in circumstances previously approved in writing by IMRO;

(e) where the Firm is an individual, the presentation of a petition for a bankruptcy order against the individual or an award of sequestration;

(f) the Firm being adjudicated or declared insolvent by due process of law or acknowledging its inability to pay its debts;

(g) an event or circumstance analogous to any of those set out above having occurred under the law of any jurisdiction applicable to the Firm;

(h) the application by a Firm for the granting, withdrawal or revocation of, or the refusal of any application for:
(i) authorisation under the Banking Act 1987;
(ii) registration under the Insurance Brokers (Registration) Act 1977;
(iii) authorisation under the Insurance Companies Act 1982; or
(iv) a licence under the Consumer Credit Act 1974;

(i) the application by a Firm for the granting, withdrawal or revocation of, or the refusal of any application for, authorisation to carry on Investment Business or banking or insurance business in any country or territory outside the UK;

(j) the application by a Firm for the granting, withdrawal or revocation of, or the refusal of any application for, membership of SIB, any SRO, Recognised Professional Body, Recognised Investment Exchange, Overseas Investment Exchange or Overseas Clearing House;

(k) admission to, or removal from, the list of persons exempted by virtue of Section 43 of the Act to be maintained by the Bank of England for the purposes of that Section;

(l) appointment of inspectors by a statutory or other regulatory authority to investigate the affairs of the Firm;

(m) the imposition of disciplinary measures or sanctions on the Firm in relation to its Investment Business by any statutory or other regulatory authority;

(n) the bringing of any action against the Firm under Section 62 of the Act;

(o) the bringing of a prosecution against, or the conviction of, the Firm for any offence under legislation relating to banking or other financial services, Building Societies, companies, consumer credit, credit unions, friendly societies, insolvency, insurance and industrial and provident societies, or for any offence involving fraud or other dishonesty;

(p) any adverse finding against the Firm by the Takeover Panel;

(q) the imposition of any disciplinary measures or sanctions on the Firm by any professional institute or body;

Note: Some professional bodies may discipline members of a profession who are not members of the body e.g. the law Society in certain circumstances.

(r) where the Firm is an individual, the making of an order disqualifying him from serving as a Director;

(s) where the Firm is an individual, he has become insane or otherwise incapable of properly managing his affairs;

(t) cessation of all, or any part, of the Firm’s Permitted Business or the Firm not having commenced its Permitted Business within six months after its admission to membership of IMRO;

(u) any act or omission on the part of the Firm which is reasonably likely to lead to or result in any cessation of business referred to in paragraph (t);

(v) the formation, acquisition, disposal or dissolution of a Subsidiary;

(w) the acquisition or disposal by a Firm not being a Body Corporate of a holding of more than half of the voting rights attaching to the Equity Share Capital of a Body Corporate;

(x) in relation to the management of the assets of an Occupational Pension Scheme, or of any other trust in respect of which a Firm acts as a Permitted Third Party in accordance with Rule 11.1(4) of Chapter II, a Firm’s receipt of any request or instruction which the Firm:
(i) knows; or

(ii) on substantial grounds:

(A) suspects; or

(B) has cause to suspect (where a reasonable and honest person would have cause to suspect);

would be likely, if followed, to be materially at variance with the duties of a trustee.

(y) any disciplinary action or sanctions which are taken by the Occupational Pensions Regulatory Authority against the Firm or any of its Officers or employees.

SECTION 3 Complaints

3.1 COMPLAINTS PROCEDURE

3.1(1) Arrangements for Complaints and co-operation with their investigation

1.1.96; RN18

(a) A Firm must have procedures to ensure:

(i) the proper handling of Complaints from Customers relevant to its compliance with the Principles and the Rules and, in the case of an ISD Firm carrying on ISD Investment Services in a Host State, in compliance with Host State requirements applicable to the conduct of that business;

Note: The fact that a particular Investment has performed badly will not, by itself, normally be regarded as a valid Complaint.

(ii) that any appropriate remedial action on those Complaints is promptly taken; and

(iii) where the Complaint is not promptly remedied, that the Customer is advised of any further avenue for complaint available to him under the regulatory system.

(b) A Firm must co-operate with a person appointed by IMRO to investigate Complaints.

3.1(2) Firms to establish written Complaints procedure

30.11.91

Each Firm must establish a written procedure for the proper handling of Complaints, and take reasonable steps to ensure compliance with it, including ensuring that each of its Officers and employees, and those of its Appointed Representatives, is aware of the procedure and of the duty to comply with it.

3.1(3) Application of Rules to Significant Complaints

1.5.95; RN11

Paragraph (a)(iii) of Rule 3.1(1) and Rules 3.1(4) to (5) apply only to Significant Complaints.

3.1(4) Content of Significant Complaints procedure

31.10.97; RN43

In relation to any Significant Complaint, the procedure described in Rule 3.1(2) must contain at least these provisions:

(a) the complaint must be considered by an Officer or employee of suitable seniority who was not himself concerned in the matter or, where this is not possible, by another person of appropriate standing who is not an Officer or employee of the Firm or the Appointed Representative, and a substantive reply must be sent promptly;

(b) where a Complainant has received a substantive reply and does not within one month of its being despatched indicate that he is not satisfied, the complaint may be treated as settled on the terms of that reply provided that the reply included a notification to the Complainant that his complaint would be so treated in the circumstances;
(c) if two months after the complaint has been received it has not been settled to the satisfaction of the Complainant, the Firm must:

(i) give notice to IMRO of the details of the complaint and of the action taken in response to it; and

(ii) inform the Complainant that IMRO has been so notified and give him the date of the notice;

(d) the first substantive reply to the complaint, unless it offers a settlement reasonably expected to be acceptable to the Complainant, must:

(i) advise the Complainant that he has a right to complain directly to the Investment Ombudsman; and

(ii) enclose with it a copy of the Informal Guide to the Investment Ombudsman service;

Note: The Informal Guide is set out at Annex A to this Chapter. In pursuance of their obligations under this Rule, Firms may supply a photocopy of this Annex to Complainants.

Note: Under the terms of the Ombudsman Memorandum the Investment Ombudsman may consider Complaints against Firms, subject (inter alia) to these conditions:

(a) the matter arose after 29 April 1988 or after the date on which the Firm became authorised under the Act by SIB or by virtue of its membership of IMRO, another SRO or Recognised Professional Body;

(b) where the Complaint alleges financial loss, the Complaint is unlikely to give rise to a claim exceeding £100,000 (being the maximum amount which normally the Investment Ombudsman may award in making an adjudication on a Complaint which he may do if he concludes after investigation that there is no reasonable prospect of a settlement); this condition would not apply if the Firm and the Complainant had agreed to a higher limit;

(c) the Complaint is referred to the Investment Ombudsman within three years of the date on which the Complainant, in the opinion of the Investment Ombudsman, knew or ought reasonably to have know of the act or omission giving rise to the Complaint.

Firms are, however, advised to refer to the Ombudsman Memorandum itself for the full basis on which the Investment Ombudsman may operate; the Ombudsman Memorandum is set out at Annex B to this Chapter.

(e) if the Complainant, having received a substantive reply as described in (d), indicates dissatisfaction, the next response must, unless this has already been done in connection with the complaint in question, advise the Complainant that he has a right to complain directly to the Investment Ombudsman;

(f) where the Firm gives notice to IMRO of a complaint, as described in (c), the Firm must, when the complaint has been settled to the satisfaction of the Complainant, give notice to IMRO of the terms of the settlement;

(g) a full record of each Significant Complaint and of the action taken in response to it must be kept by the Firm for three years after the date of the last response.

3.1(5) Returns to IMRO

A Firm must submit to IMRO, as part of its Statement of Representation, a return of all Significant Complaints which have been received and those which have been settled during the period covered by that statement or, if there have been none in either category, confirming that fact.
3.1(6) Co-operation with IMRO

1.5.95; RN11

Without limiting its other obligations under this Chapter of the Rules, each Firm must co-operate with IMRO in any investigation of any Complaint, and in particular must upon request inform IMRO of any similar Complaint within the preceding year from any Complainant or of any Complaint from the same Complainant within that period.

In responding to a request from IMRO under Rule 3.1(6) a Firm which conducts its business through branches may provide IMRO with information about previous Complaints which relate to the experience of the relevant branch rather than to the Firm’s whole business unless, on consideration, IMRO requests wider information.

3.1(7) Ombudsman’s investigation

1.5.95; RN11

Where:

(a) a Complaint or Dual Complaint is referred to the Investment Ombudsman; and
(b) the Investment Ombudsman investigates that complaint;

a Firm must co-operate with the Investment Ombudsman in his investigation, in accordance with the Ombudsman Memorandum.

Note:
The Ombudsman Memorandum is set out at Annex B to this Chapter.

Note:
Former Firms may also be bound to co-operate (see Rule 3.1(15)).

3.1(8) Submission to adjudication

1.5.95; RN11

Where:

(a) a Complaint or Dual Complaint is referred to the Investment Ombudsman; and
(b) the Investment Ombudsman offers adjudication in relation to that complaint;

a Firm must, on request, enter into a submission to adjudication in accordance with the Ombudsman Memorandum.

3.1(9) Co-operation by Firm with other Ombudsman Bureaux, etc

1.5.95; RN11

The Firm must co-operate with any investigation or any other action undertaken by:

(a) the PIA Ombudsman Bureau, where the Firm is also a member of the Personal Investment Authority and the Complaint which is being investigated by the PIA Ombudsman is a Dual Complaint; or

Note:
IMRO has concluded a Memorandum of Understanding with the PIA Ombudsman Bureau. Under this memorandum the Investment Ombudsman and PIA Ombudsman Bureau will decide between them, on a case by case basis, which of them should investigate a Dual Complaint. The following factors are however relevant as to which office shall investigate a Dual Complaint:
(a) if one office is able under its constitution to deal with the Dual Complaint in its entirety but the other is not, the former will normally deal with it;
(b) if the Dual Complaint does not fall within (a) but predominantly concerns matters which are regulated by IMRO rather than PIA, the Investment Ombudsman will normally deal with it; if it predominantly concerns matters which are regulated by PIA rather than IMRO, the PIA Ombudsman Bureau will normally deal with it.

(b) the Pensions Ombudsman or OPAS Limited, where the Complaint is being investigated by that person.
Note:
For the avoidance of doubt Firms are reminded that "Complaint" means a complaint with concerns Investment Business.

3.1(10) Requirement not to pursue other remedies where a reference by the Complainant to the Investment Ombudsman is expected or has been made
1.5.95; RN11

Save as provided under Rule 3.1(11), where a Firm has a claim against a Complainant but also has an indication from the Complainant of a claim against the Firm, made in good faith and reasonably and directly related to the circumstances of the Firm's claim, the Firm shall not pursue any right or remedy in respect of its own claim, and if proceedings have already been commenced shall take reasonable steps to have them stayed.

3.1(11) Disapplication of Rule 3.1(10)
1.5.95; RN11

The Firm will be relieved of the requirements of Rule 3.1(10) in these circumstances:

(a) the Complainant has been informed in writing of his right to refer his Complaint to the Investment Ombudsman (and has been sent a copy of the Informal Guide) but after a lapse of two months has not done so as far as the Firm is reasonably aware; or

Note:
The Informal Guide to the Investment Ombudsman service is set out at Annex A to this Chapter.
(b) both claims have been referred to the Investment Ombudsman but he has either declined to investigate the Firm's claim or has informed the Firm that he has no objection to the Firm pursuing its own remedies; or

(c) at any stage, the Complainant has made no response to any communication from the Investment Ombudsman within two months of its despatch.

3.1(12) Compliance with awards, adjudications and settlements
1.5.95; RN11

(a) A Firm must promptly comply with any award or other adjudication made against the firm by the Adjudicator, or by the PIA Ombudsman Bureau in relation to a Dual Complaint, except only where a right of appeal subsists and is exercised in good faith.
(b) A Firm must promptly comply with any settlement arising out of the Investment Ombudsman's investigation, or of the PIA Ombudsman Bureau in relation to a Dual Complaint.

3.1(13) Reporting to IMRO
1.5.95; RN11

A Firm must promptly report to IMRO in reasonable detail the outcome of any investigation or adjudication by the Investment Ombudsman, or by the PIA Ombudsman Bureau in relation to a Dual Complaint, and the steps taken by the Firm to satisfy any agreement or award.

Note:
Rule 2.2(1) of Chapter IV and Table 2.2(1) paragraph 12 require Firms to notify IMRO of the conclusion of any investigation or adjudication proceedings by the Pensions Ombudsman's Office or OPAS Limited concerning a Firm's Permitted Business.

3.1(14) Appointed Representatives
1.5.95; RN11

(a) A Firm must ensure that each of its Appointed Representatives complies with Rules 3.1(1) to (13) as if they were directly binding. Where such Rules otherwise require the Appointed Representative to submit or agree to adjudication or investigation, the Firm shall also be required to join in the submission or agreement, either alone or together with the Appointed Representative, as the Investment Ombudsman may direct.

Note:
Under Rule 1.7(2) Firms are responsible for anything done by their Appointed Representatives in carrying on the Firm's Investment Business.
(b) The information which a Firm is required to report to IMRO under Rules 3.1(5) and (13) shall include information relating to Complaints made not only to the Firm but also to its Appointed Representatives.

3.1(15) Obligations of this chapter binding on past Firms

1.5.95; RN11

The requirements of Rules 3.1(6) to (13) shall continue to bind a Firm in relation to any Complaint made against it:

(a) which is first referred to the Firm within twelve months after membership ceases; or

(b) which is first referred to the Firm, but not reported by the Firm to IMRO under paragraph (c) of Rule 3.1(4), before membership ceases;

irrespective of the circumstances in which membership shall have ceased. A full record of each such Complaint and of the action taken in response to it must be kept by the Firm for three years after the date of the last response.

3.1(16) Unit trusts and Collective Investment Schemes

16.2.96; RN24

Where a Complaint is referred to the Investment Ombudsman by a holder of units or the equivalent in a Unit Trust Scheme or any other Collective Investment Scheme which is operated by a Firm and where the trustee or custodian is also regulated by IMRO:

(a) such trustee or custodian must if so invited by the Investment Ombudsman promptly consider whether, consistently with its duties as such trustee or custodian, the circumstances are such that a further Complaint should be made by the trustee or custodian in relation to the interests of any other holder or holders and, if it concludes that such a Complaint should be made, promptly notify the Investment Ombudsman thereof and properly prosecute the same;

(b) such trustee or custodian must, whether or not such further Complaint is made, take over and prosecute or otherwise assist in relation to the Complaint made by the holder, if and to the extent that the Investment Ombudsman shall consider that desirable for the proper prosecution of such Complaint.

ANNEX A THE INFORMAL GUIDE TO THE INVESTMENT OMBUDSMAN SYSTEM

31.10.97; RN43

(Firms may provide Complainants with a photocopy of this guide.)

INTRODUCTION

Investment Management Regulatory Organisation Limited ("IMRO") is the self-regulating organisation recognised under the Financial Services Act 1986 with responsibility for the regulation of investment management in the United Kingdom.

As part of its responsibilities, IMRO has established a system for the independent consideration of Complaints against the firms which it regulates ("IMRO Firms") by Customers who feel themselves aggrieved and entitled to seek redress.

The system involves:

(a) consideration of the Complaint by the Firm itself; and

(b) if the Customer is not satisfied, independent investigation of the Complaint, involving both an investigation stage and a possible subsequent adjudication stage, by the Investment Ombudsman.

This document is an informal guide to give both Firms and potential Complainants a general idea of how the Investment Ombudsman system works. This is done in the form of the following questions and answers.

1 Can I refer a matter to the Investment Ombudsman?

Yes, so long as you have been a customer of an IMRO Firm (or of one of its Appointed Representatives) - that is, a firm which is regulated by IMRO for the purposes of the Financial Services Act 1986 to which the IMRO Rules apply. This will usually mean that the firm must have been providing some kind of investment management or related service for you.

Until trusts are a slightly special case because a holder of units may not properly speaking be a Customer. Nonetheless, if you have a Complaint about the management of a unit trust
managed by an IMRO Firm or against a trustee of a Unit Trust Scheme you may be able to refer it to the Investment Ombudsman. Because of the legal structure of a unit trust, the Investment Ombudsman may require the trustee to take up the Complaint on your behalf.

2 What matters can be referred to the Investment Ombudsman?

Remember that the value of investments can go down through no fault of the investment manager; the fact that a particular investment has performed badly will not, by itself, normally be regarded as a valid Complaint. Subject to that, you can refer virtually any Complaint alleging that you have lost money or suffered distress and inconvenience because of what the IMRO Firm has done, or failed to do, and for which you think the IMRO Firm is at fault - either under the Customer Agreement you have with the Firm or in some other way.

The Complaint must, however, relate to investment business which is being conducted by the IMRO Firm, and not to some other type of business which the Firm may be undertaking.

If the Investment Ombudsman considers that the Complaint is outside his jurisdiction he will refer it to IMRO for any action that IMRO can appropriately take.

3 Are there any other conditions?

Yes. There are four other conditions which you must satisfy before the Investment Ombudsman can look into your Complaint. These are as follows:

(a) you must have given the IMRO Firm a reasonable opportunity (and in any event no less than two months) after you first complained, to satisfy you on the matter about which you are complaining;

(b) the matter must be referred to the Investment Ombudsman within THREE YEARS after you knew or should have known of the problem, although the Investment Ombudsman has a limited discretion to accept Complaints after this time;

(c) where you allege financial loss your Complaint must normally not involve a sum exceeding Â£100,000 (being the maximum sum which the Investment Ombudsman normally can award if he carries out an adjudication) although, with your consent and that of the Firm, he can consider a Complaint involving a higher amount; where no financial loss is alleged the maximum the Investment Ombudsman can award, if he carries out an adjudication is Â£750 in respect of any distress and inconvenience caused to you as a result of the Firm’s acts or omissions;

(d) your Complaint must relate to something that happened after 29 April 1988 (or after the date on which the Firm became authorised under the Financial Services Act 1986 by the Financial Services Authority or by virtue of its membership of IMRO, another self-regulating organisation or 'recognised professional body').

4 What will the Investment Ombudsman do about it?

First, he will investigate the facts of the case and seek to establish the relevant issues between you and the IMRO Firm. He will do this by a process of "investigation" on an informal basis with a view to recommending a settlement to you and the IMRO Firm which he considers to be fair and reasonable. If you and the Firm accept the recommended settlement that will be the end of the matter.

If you or the Firm do not accept the recommended settlement or the Ombudsman concludes that there is no reasonable prospect of an agreed settlement, he may offer to arrange for an "adjudication" of the matter. This means that the Investment Ombudsman’s office will offer to decide whether or not your Complaint against the IMRO Firm is justified and whether you are entitled to compensation. You can choose whether or not to accept the offer to adjudicate. If you do, the Firm is obliged to accept it, and you and the Firm will be bound by the Investment Ombudsman’s decision.

5 Will the Investment Ombudsman provide adjudication on any type of complaint?

No. Although he may investigate any type of Complaint, if you are alleging financial loss he can only provide adjudication where you also allege that the IMRO Firm has done something for which you would have a legal remedy. So, the Investment Ombudsman is only able to provide adjudication if your Complaint is about such things as a breach of your Customer Agreement, or a breach of the Rules of IMRO or of the general law.

The situation is different where your Complaint alleges no financial loss but that you have suffered distress and inconvenience as a result of the IMRO Firm’s acts or omissions. In those circumstances the Investment Ombudsman may provide adjudication if he considers it just in the circumstances, but generally any adjudication award will be limited to a maximum of Â£750.

6 Who will deal with the adjudication?

When a matter proceeds to adjudication the Investment Ombudsman will appoint an Adjudicator to hear and resolve the adjudication. The Adjudicator will be a different person from the person
who investigated your Complaint with a view to reaching an agreed settlement between you and the IMRO Firm.

7 How does the Adjudicator handle an adjudication?

He will tell you the procedure he will use. He will aim to be as informal, simple and speedy as possible. In addition to any evidence produced by you or the Firm, he may himself seek evidence to support your Complaint or to support any answer to it by the IMRO Firm; he may deal with the matter wholly in writing or he may ask you to attend an informal hearing.

He will always have the overriding aim of acting fairly both towards you and towards the IMRO Firm. For example, in fairness to the Firm, he would probably have to stop his adjudication if IMRO started disciplinary proceedings against the Firm on the same matter; but in that event you would be free to notify the Ombudsman that you no longer wanted him to continue the adjudication; and you would then be able to take any other legal steps to pursue your Complaint. Alternatively, once the disciplinary proceedings were finished, he could resume the adjudication if you still wanted him to do so.

8 What do I do if I need help in formulating my complaint?

Your Complaint has to be properly set out before the Adjudicator can adjudicate on it. If you need help, you are free to consult anyone you choose. The Ombudsman who conducted the investigation of your Complaint will help you if you ask him to; if you do, he will ask you to undertake that you will not subsequently try to make a legal claim against him because you feel he did this wrongly.

9 What happens if the Adjudicator awards me more than Â£100,000?

The Firm will be bound to pay you any sum the Adjudicator decides, up to Â£100,000. If he decided that you should be paid more than Â£100,000, he would invite the Firm to pay the full amount. The Firm would not have to agree. If the Firm did not agree, you would have a choice: you could take Â£100,000 and waive the balance; or you could refuse, and the Adjudicator would then cancel his decision, and you would be free to take action against the Firm afresh, for example in the courts.

10 Could I end up having to pay something to the IMRO Firm?

You do not ever have to pay. If the Adjudicator decided that on balance, the Firm's Complaint against you, weighed with your Complaint against the Firm, justified a payment by you, he would invite you to agree to pay the amount he had decided was due. You would not have to agree. If you did not agree, the Adjudicator's award would be cancelled and both the Firm and you would be free to take action over the dispute afresh, for example in the courts.

11 Is the Adjudicator's award the end of the matter?

Normally yes. The law does permit either you or the Firm to ask the High Court to hear an appeal (provided application is made within a very short time limit) but only on a point of law, and you should note that under normal practice, leave to appeal is rarely given.

12 Will I have to have a lawyer?

No. Indeed the Investment Ombudsman will not normally allow people to deal with his office through lawyers unless in a special case he feels it would help.

13 Does the IMRO Firm have to co-operate with the Investment Ombudsman's office?

Yes – both in the investigation stage and, if you accept the Investment Ombudsman’s offer to provide adjudication, in the adjudication stage.

14 What are my obligations?

Once you have asked the Investment Ombudsman to act, you too will be obliged to co-operate fully in the investigation process and any subsequent adjudication.

You and the IMRO Firm will also normally be bound to keep any information disclosed to you in the course of the investigation or adjudication process strictly confidential, but you may disclose information to your adviser to help him set out your Complaint (see paragraph 8).

15 Do I give up my rights by coming to the Investment Ombudsman?

If you accept the Investment Ombudsman’s offer to investigate or provide adjudication, both you and the IMRO Firm must agree that you will normally not in the meantime pursue any other right or remedy concerning the circumstances surrounding your Complaint.

The Adjudicator’s award on adjudication will normally be final and binding on both the IMRO Firm and on you.

16 Can the Firm avoid a reference to the Investment Ombudsman by going straight to the courts?
Normally not. If a dispute involves both a claim by the Firm against you and a counterclaim by you against the Firm, you will have an opportunity to decide first whether you wish the matter (including the counterclaim) to be dealt with by the Investment Ombudsman before the Firm is entitled to pursue its remedy in the courts.

17 Can the IMRO Firm complain to the Investment Ombudsman against me?

Not unless you have referred a Complaint to the Investment Ombudsman first. Then the Firm will be free to answer your Complaint and in so doing he may also request the Investment Ombudsman to provide adjudication on any genuine complaint he has against you relating to the same subject. You have the opportunity at that stage to withdraw if you prefer to do so.

18 Can the Investment Ombudsman refuse to take on a case?

No. Once the Ombudsman decides that a case falls within his jurisdiction he is obliged to investigate your case although in certain circumstances this may only consist of an examination of the papers before him. The Ombudsman having attempted to effect an agreed settlement may offer adjudication on a case; he might, however, refuse to offer adjudication, for example if he thought that a Complaint was without any merit at all.

19 What will it cost me to take a case to the Investment Ombudsman?

Normally nothing. You will have to pay no fee for the Investment Ombudsman's services. Only in a very special case where the Investment Ombudsman considers that a person has behaved unreasonably and caused unnecessary expense will the Investment Ombudsman's office have power to make an order for costs against that person.

20 How do I find out more about the Investment Ombudsman system?

These questions and answers are only an informal guide to give you a general idea of how the system works. If you are considering referring a matter to the Investment Ombudsman, it would be advisable (though not essential – it is up to you) to read a copy of the Ombudsman Memorandum, which is the technical document that sets out the full details of the system. If there is any argument about meaning or interpretation, it is only the Memorandum that matters; if you need help in understanding it, you can ask for guidance from the Investment Ombudsman’s office. A copy of the Memorandum can be obtained on request from IMRO, or from the Investment Ombudsman’s Office.

21 How do I set about making a Complaint to the Investment Ombudsman?

After reading this document, all you have to do is to send a statement of your Complaint, with as much detail as you can in the way of dates, reference numbers, and the like, to this address:

The Office of the Investment Ombudsman
6 Frederick’s Place
London EC2R 8BT
Tel: 0171 796 3065

ANNEX B THE OMBUDSMAN MEMORANDUM

31.10.97; RN43

SECTION 1- INTRODUCTION

The Ombudsman Memorandum

1.1 IMRO is the self-regulating organisation recognised under the Act with responsibility for the regulation of investment management in the United Kingdom.

1.2 As part of its responsibilities, IMRO has established an independent system for the consideration of complaints against IMRO-regulated firms ("Firms") by customers who feel themselves aggrieved and entitled to seek redress. The system involves independent investigation of a complaint under the terms of the Ombudsman Memorandum. This present document constitutes that Memorandum.

1.3 Words and terms used in this Memorandum have the meaning set out in Section 6 of this Memorandum.

Appointments

2.1 IMRO will appoint and designate as the Investment Ombudsman a person it regards as suitable, by reason of qualification or experience or both, to discharge the functions described in this Memorandum.

2.2 One or more Deputy Ombudsmen may also be appointed by IMRO, on the same criteria, after consultation with the Investment Ombudsman, to fulfil the functions of the Investment Ombudsman when requested to do so by the Investment Ombudsman or in his absence.
2.3 One or more persons may also be appointed by IMRO, after consultation with the Investment Ombudsman, as adjudicators to discharge the adjudication function described in this Memorandum (an "Adjudicator").

2.4 All appointments referred to in this Memorandum shall be in writing and deposited with the Secretary of IMRO and shall be on such terms as IMRO shall think fit. Any appointment may be revoked by IMRO for gross misconduct or in the event that IMRO is no longer satisfied that the Investment Ombudsman has established and is maintaining effective arrangements for the investigation of Complaints against Firms.

Costs

3.1 IMRO will be responsible for the provision of the office of the Investment Ombudsman and for any fees, accommodation costs, salaries etc. involved in its establishment and maintenance including administrative expenses.

The Committee

4.1 Any decisions on appointments or revocations of appointments pursuant to paragraphs 2.1 to 2.4 of this Memorandum shall be made by a Committee of the Board ("the Committee"). The Committee shall consist of members of the Board and a majority of the Committee shall at all times consist of persons independent of both IMRO and its Firms.

4.2 Subject to the overall policy of the Board as to remuneration, the Committee shall be exclusively responsible for fixing the remuneration of the Investment Ombudsman.

4.3 The Committee shall generally satisfy itself that the Investment Ombudsman has established and maintains effective arrangements for the investigation of Complaints against Firms.

4.4 IMRO will maintain no power of direction or influence over the Investment Ombudsman in the exercise of any of his functions as set out in this Memorandum in relation to the investigation or adjudication of any Complaint.

Investment Ombudsman's Reports

5.1 The Investment Ombudsman shall once in every year report in writing to the IMRO Board. The report shall deal with matters with which he has been concerned during the year under review and any other matters which he considers should be drawn to the attention of the Board. These may include, if considered desirable, general observations about the conduct of Firms (based on the Complaints with which his office has been concerned) and any general concerns of the Customers of such Firms in that respect. He may in his report refer to individual cases which are or have been before an Ombudsman or Adjudicator but he shall not identify the parties to those cases. Each annual report shall be published as soon as possible after the end of IMRO's financial year and shall relate to that financial year. Copies will be available upon payment of a reasonable charge.

Delegation

6.1 The Investment Ombudsman may request a Deputy Ombudsman to exercise all or any specified functions of the Ombudsman either generally or in relation to a particular matter. In the absence of such a request, the Investment Ombudsman shall himself act as the Ombudsman. References to the "Ombudsman" shall, where the context admits, mean the person who is to act in relation to a particular matter as the Ombudsman.

6.2 The Investment Ombudsman may replace one Ombudsman with another Ombudsman at any time during an investigation.

6.3 Where the Investment Ombudsman ceases to hold office, or is for any other reason unwilling or unable to continue to do so, his place shall be taken in relation to any particular Complaint by such Deputy Ombudsman as IMRO may appoint.

SECTION 2- JURISDICTION

General jurisdiction

7.1 The Ombudsman shall investigate any Complaint which is referred to him by a Complainant unless he considers that the Complaint is outside his jurisdiction. A Complaint is within his jurisdiction where the Complainant alleges:

(a) that he has suffered Financial Loss as a result of the subject matter of the Complaint; and/or

(b) that although no Financial Loss is involved, concerns are raised about the Firm's administration, actions or omissions and the Complainant has suffered distress and
inconvenience as a result;

and where the Ombudsman is satisfied that the conditions of paragraph 7.2 are met.

**Note:**

“Complaint” means a complaint made by or with the authority of a Complainant to a Firm or any Appointed Representative of a Firm concerning the Firm’s Permitted Business or Investment Business conducted by the Firm whilst it was subject to the rules of FSA, or of any SRO or Recognised Professional Body (whether or not it was regulated by IMRO at the time a complaint was made). See Section 6 (Definitions) of this Memorandum.

**Note:**

The fact that a particular Investment has or may have performed badly will not, by itself, normally be regarded as a valid Complaint.

7.2 The conditions referred to in paragraph 7.1 above are as follows:

(a) where the Complaint has first been made to the Firm concerned, the Firm must have been given a reasonable opportunity (and in any event no less than two months) to resolve it to the satisfaction of the Complainant; and

(b) the Complaint is within the monetary limits referred to in paragraphs 10.1 to 10.3 below; and

(c) the act or omission giving rise to the Complaint occurred, in the opinion of the Ombudsman, after 29 April 1988 or after the date on which the Firm became authorised under the Act by FSA or by virtue of its membership of IMRO, another SRO or Recognised Professional Body; and

(d) the Complaint is referred to the Ombudsman in writing before the expiry of three years from the date on which the Complainant, in the opinion of the Ombudsman, knew or ought reasonably to have known of the act or omission giving rise to the Complaint. The Ombudsman may nonetheless accept a Complaint as coming within his jurisdiction if:

(i) in his opinion it was not reasonably practicable for a Complaint to have been referred to him before the expiry of the three year period; and

(ii) the Complaint is referred to him within such further period as he considers reasonable.

7.3 The conditions set out in (b), (c) and (d) above shall not apply to Complaints relating to Pension Transfers, Pension Opt - Outs and Non-joiners as described in the Factsheet issued by FSA in October 1994 on that subject, in respect of which the Investment Ombudsman shall accept jurisdiction but subject always to paragraph 7.1.

**Unit trusts, etc**

8.1 Subject to paragraph 8.2, the Ombudsman’s jurisdiction extends to any Complaint which is referred to him by a holder of units or similar interests in a Unit Trust Scheme or other Collective Investment Scheme which is operated by a Firm (whether or not the holder is a customer of the Operator or trustee of the Scheme) and where:

(a) the trustee is a Firm and is carrying on Specified Trustee Business in relation to the Scheme; or

(b) the Unit Trust Scheme or other Collective Investment Scheme is operated by a Firm and:

(i) the matter is, in the opinion of the Ombudsman, likely to be substantially one of legal liability between the Operator and such holder; or

(ii) the trustee or custodian is a Firm; or

(iii) the trustee or custodian is not a Firm but has voluntarily submitted to be bound by this Memorandum and agreed to the investigation procedure or, as the case may be, adjudication in a manner satisfactory to the Ombudsman.

8.2 Paragraph 8.1 applies provided that the Complaint would otherwise fall within paragraphs 7.1 to 7.3.

8.3 The Ombudsman shall notify any such trustee or custodian of the reference to him of such Complaint so as to enable such trustee or custodian to consider whether the circumstances of such Complaint could be applicable to any other holder of units or similar interests and whether, consistent with its duties as such trustee or custodian, it should itself refer the matter to the Ombudsman for the benefit of such other holder or holders.
8.4 Where paragraph 8.1 applies, all the remaining provisions of this Memorandum shall apply, with the appropriate changes being made, save that:

(a) for the purposes of paragraph 10.1 when the Ombudsman is considering whether the Complaint is likely to give rise to a claim or claims exceeding the Claim Limit:

(i) in the case of a Complaint made by a holder of units or similar interests (which has not been taken over by the trustee or custodian pursuant to paragraph 8.5 below), he shall have regard solely to the amount attributable to that holder of units or similar such interests;

(ii) in the case of a Complaint originally made by a trustee or custodian from a holder, he shall have regard to whether the amount attributable to any one holder of units or similar such interests is within the Claim Limit even if the aggregate amount attributable to all such holders or the amount attributable to any one other such holder is in excess of the Claim Limit;

(b) for the purpose of paragraph 7.2(d) the time limit shall apply to the referral by the holder of units or similar interests but shall not apply to the date (if any) on which such trustee or custodian shall take over such Complaint.

8.5 Where the Ombudsman considers that it would assist the prosecution of any such Complaint to do so, then to the extent that it is within his powers to do so, he may require any such trustee or custodian to take over and/or prosecute and/or assist in relation to such Complaint before the Ombudsman.

8.6 In any case where the Ombudsman is of the opinion that it is appropriate to do so, he may direct that any sum payable pursuant to an Agreed Settlement or Final Award shall be paid to the trustee or custodian (and not to the Complainant) to be dealt with by the trustee or custodian as he sees fit.

Appointed Representative

9.1 The Ombudsman may in addition act in relation to a Complaint made against an Appointed Representative of a Firm; and a Complaint so made will be treated as a Complaint against the Firm.

Monetary Limit

10.1 If, in respect of a Complaint made under paragraph 7.1(a) above (where Financial Loss is alleged), the Ombudsman considers, on the basis of information then available to him, that if the Complainant is successful the amount likely to be paid pursuant to an Agreed Settlement or a Final Award will exceed in total €100,000 excluding interest (the "Claim Limit"), then the Ombudsman will be unable to accept jurisdiction unless the provisions of paragraph 10.2 apply.

10.2 The Ombudsman may in his absolute discretion, and subject to such conditions as he may impose, agree to act in relation to a Complaint exceeding or then appearing to him likely to exceed the Claim Limit if the Firm or Firms and the Complainant involved have agreed in writing and so informed the Ombudsman, that they are willing that the Ombudsman shall act, free of the Claim Limit or free therefrom up to a higher specified sum excluding interest (the "Specified Maximum"), and if the agreement covers adjudication the Adjudicator may make a binding award accordingly.

10.3 In respect of a Complaint made under paragraph 7.1(b) above (where no Financial Loss is involved) the sum payable pursuant to an Agreed Settlement or a Final Award shall be limited to €750, unless, in the opinion of the Ombudsman or Adjudicator, the circumstances are so exceptional as to justify a higher amount.

Dual SRO Membership

11.1 If the Ombudsman considers that a complaint amounts to a Complaint (as defined) and is also a complaint relating to Investment Business which the Firm is permitted to carry on by virtue of its membership of another SRO or Recognised Professional Body or its authorisation by FSA ("Dual Complaint"):

(a) the Ombudsman may investigate the Dual Complaint if, having consulted with such other body as he considers appropriate, he is satisfied that the Dual Complaint has not and will not be investigated under another complaints scheme to which the Firm is subject;

(b) the Ombudsman may only refuse to investigate the Dual Complaint if, having consulted with such other body as he considers appropriate, he is satisfied that the Dual Complaint, including that part which relates to the Firm's Permitted Business, is or will be investigated under another complaints scheme to which the Firm is subject;

(c) where relevant to any such investigation or adjudication proceedings, the Rules of IMRO may be taken by the Ombudsman or Adjudicator to include such of the rules of that other SRO or Recognised Professional Body or of FSA as are applicable to the particular matter before him.
Establishment of jurisdiction

12.1 Where the Ombudsman decides that a Complaint falls within his jurisdiction, he will so notify the parties and will investigate the Complaint. Where the Ombudsman decides that the Complaint is outside his jurisdiction he will refer the matter to IMRO for such further action (if any) as IMRO considers appropriate and he will notify the parties accordingly.

Note:
The Ombudsman will also notify IMRO of the existence of the Complaint, as provided for in paragraph 38.1.

SECTION 3- INVESTIGATION

Effect of Investigation

13.1 By participating in the investigation of a Complaint the parties concerned will bind themselves not to pursue any other right or remedy in respect of the Complaint or, as the case may be, any claim against the Complainant which is reasonably or directly related to the circumstances surrounding the Complaint, unless the Ombudsman, in response to a request from either party, confirms that he no longer regards himself as seised of the matter, or that he otherwise has no objection to such right or remedy being pursued.

Note:
The Firm is obliged by the Rules of IMRO to co-operate with the Ombudsman’s investigation under this Memorandum.

Procedure

14.1 In exercising the function of investigator the Ombudsman will investigate the Complaint in whatever way he considers appropriate with a view to establishing the facts and identifying the relevant issues. He will do this with the objective of bringing about a settlement which he considers to be fair and reasonable in all the circumstances, and he will act impartially in all respects.

14.2 In exercising his function as investigator the Ombudsman may adopt any appropriate procedure to achieve the objective set out in paragraph 14.1.

14.3 The Ombudsman’s investigation of a Complaint need only consist of an examination of the papers before him where in his opinion the Complaint is frivolous, vexatious or without merit, or the allegations it makes or the extent of the resources available to him are such that the Complaint would be better resolved in court.

14.4 The Ombudsman shall not be bound by any legal rule of evidence.

Co-operation with Ombudsman

15.1 Each party will be obliged to co-operate in the provision of information, as the Ombudsman may reasonably consider necessary or desirable with a view to his achieving the objective stated in paragraph 14.1. In particular, and without prejudice to the foregoing, each party shall comply with any reasonable request of the Ombudsman to do any of the following things:

(a) provide promptly, accurately and fully, orally or in writing as the Ombudsman may prescribe, any relevant information in the possession, power or control of the party that the Ombudsman may require; and

(b) answer promptly, accurately and fully, any relevant question put by the Ombudsman; and

(c) where appropriate, attend or procure attendance before the Ombudsman, or the provision of such information to the Ombudsman, as the Ombudsman may require, by any director, officer, employee or representative of the party or, where practicable, any former director, officer, employee or representative of the party whom the Ombudsman may direct; and

(d) provide promptly, copies of any relevant document or record which the Ombudsman may require; and

(e) otherwise assist the Ombudsman in any relevant way.

Communications between Ombudsman and parties

16.1 If the matter proceeds to adjudication the papers before the Ombudsman will be made available to the Adjudicator.
16.2 Paragraphs 38.1 and 39.1 apply generally to the confidentiality of information provided to the Ombudsman during the course of the investigation process.

Conclusion of Investigation Process

17.1 Having completed all investigations and enquiries that the Ombudsman considers necessary or desirable, the Ombudsman shall decide the extent to which the Complaint is justified and, if that is the case, may recommend to the parties a settlement which he considers to be fair and reasonable.

17.2 If the parties agree to the settlement or to such revised version of the settlement as the Ombudsman considers fair and reasonable in the circumstances (an "Agreed Settlement"), the Complaint shall be regarded as at an end.

17.3 To the extent to which the Ombudsman considers that the Complaint is not justified he shall inform the parties accordingly. Thereafter he will consider whether or not he will offer the Complainant adjudication of the matter in dispute. He may in his sole discretion decide that no such offer will be made and his decision will be final and binding and no further Complaint will be accepted by the Investment Ombudsman arising out of the same matter. The Ombudsman may give reasons for his decision but shall not be obliged to do so.

Note:
It is unlikely that the Ombudsman would offer a Complainant adjudication if he considers, having carried out an investigation in relation to the Complaint, that the Complaint is substantially without merit.

Note:
The Ombudsman will notify INRO of the outcome of the Complaint, as provided for in paragraph 38.1.

SECTION 4- ADJUDICATION

Basis of claim

18.1 In respect of a Complaint made under paragraph 7.1(a) above (where Financial Loss is alleged), an adjudication award shall only be capable of being made if, and to the extent that, the Adjudicator finds that there has been a breach of a legal obligation owed to the Complainant, or other circumstances such as to give rise to a legal remedy in favour of the Complainant.

18.2 In respect of a Complaint made under paragraph 7.1(b) above (where no Financial Loss is alleged), the Adjudicator may make such adjudication award as he considers just in the circumstances, subject to the monetary limit set out in paragraph 10.3 above.

Formulation of Claim

19.1 No adjudication may commence until the Complaint, and any claims to which it may give rise (together the "Claim"), have been formulated to the satisfaction of the Complainant and the Ombudsman. The Ombudsman will be willing to assist the Complainant in formulating the Claim if the Complainant so requests, but in that event adjudication shall not commence unless the Complainant has formally confirmed in writing:

(a) that he is satisfied with the formulation of the Claim; and

(b) that the Ombudsman shall not be liable to the Complainant in negligence or otherwise in relation to the formulation of the Claim;

or unless the Ombudsman agrees otherwise.

Note:
As part of the formulation of the Claim the Ombudsman may require the Complainant to quantify the Claim but is not obliged to do so.

Appointment of Adjudicator

20.1 Where an offer of adjudication has been accepted by the Complainant, the Investment Ombudsman shall appoint an Adjudicator as the person who is to hear and determine the matter. The Investment Ombudsman may replace one Adjudicator with another Adjudicator at any time during adjudication proceedings where the Adjudicator originally appointed is unable to proceed with those proceedings promptly or at all.

20.2 The Adjudicator will notify the parties of his appointment in relation to the Complaint and of the Claim as formulated in accordance with paragraph 19.1.
Note:
The Investment Ombudsman will also send IMRO a copy of the Claim.

20.3 The Adjudicator will set out in writing the procedures that he considers he is likely to use, and will invite the Complainant and the Firm to agree to his appointment as Adjudicator. If the Complainant accepts the Ombudsman's offer of adjudication and agrees to the Adjudicator's appointment, the Firm is obliged by the Rules of IMRO (Chapter IV) to concur in the reference to adjudication and in the appointment of the Adjudicator.

Note:
Paragraphs 23.1 to 23.4 set out the procedures to be followed.

Submission to adjudication

21.1 If the matter proceeds to adjudication, the parties shall signify their agreement by signing a submission in the following form (with such variation as the Adjudicator may require):

"I/We

of _______ hereby agree to [name of Adjudicator] (or such other person as may duly be appointed to act in his place) acting as arbitrator in relation to the Claim as set out on the Claim attached hereto upon the terms set out in the attached Ombudsman Memorandum concerning the objects, powers and functions of the Investment Ombudsman. I/We confirm that I/we have read those terms and hereby agree to them.

In particular, I/we agree that

(a) any award of the Adjudicator will be final and binding; and

(b) the Adjudicator shall only have power to award costs if in his opinion a party has acted frivolously, vexatiously or otherwise unreasonably in each case upon the basis set out in the attached Ombudsman Memorandum.

Dated ________________"

21.2 By signing such a submission the parties will bind themselves:

(a) in due course to accept the Final Award of the Adjudicator as final and binding (as provided in paragraph 30.1 below) in relation to the Claim and any Counterclaim (as defined in paragraph 24.1 below);

(b) to follow the orders and directions of the Adjudicator in the course of the adjudication;

(c) to accept that the adjudication will be conducted in accordance with this Memorandum;

(d) not to pursue any other right or remedy in respect of the Claim or any Counterclaim pending or during the adjudication procedure until its termination by award or by notice under paragraphs 24.2, 28.4, 29.4, 33.2 and 34.2.

Appointed Representatives

22.1 Where it appears to the Adjudicator that a matter complained of in a Claim is an act or omission by an Appointed Representative of an IMRO Firm for which that Firm has responsibility (whether by virtue of the provisions of the Act, any Rule, or any rule of any other SRO, Recognised Professional Body or FSA), the Adjudicator shall be at liberty, whether or not the Appointed Representative is joined as a party to the proceedings, to make a Final Award against the Firm as if such act or omission had been the act or omission of that Firm; and by signing the submission to adjudication the Firm shall consent to such Final Award being made whether or not the Appointed Representative is joined as a party.

Note:

Paragraphs 32.1 to 32.3 relate to the joinder of other parties

Procedure

23.1 The procedures to be adopted by the Adjudicator are at his sole discretion and he may adopt any procedure which in his view may enable him to reach a decision promptly and fairly and in as simple a manner as is consistent with doing so. Once the adjudication has started, he will only depart from those procedures after consulting both parties and taking account of their views.

Note:
Before the parties formally accept adjudication, the Adjudicator will, by virtue of paragraph 20.3 above, have set out in writing the procedures that he considers he is likely to use.

23.2 The Adjudicator may himself seek out the evidence relating to the Claim, to any Counterclaim as referred to below, or to any defence to such Claim or Counterclaim.

23.3 The Adjudicator shall not be bound by any legal rule of evidence.

23.4 In any adjudication proceedings where disbursements have been incurred, whether by the Adjudicator, or by either of the parties, if in the opinion of the Adjudicator a party has in bringing or conducting a Claim or Counterclaim acted frivolously, vexatiously or otherwise unreasonably, the Adjudicator may at his discretion in making his Final Award make any order for such costs that seems to him to be suitable, but always having regard to any condition imposed under paragraph 36.1 below.

Counterclaims

24.1 The Firm shall (subject to paragraph 24.2 below) be entitled to bring a Counterclaim subject to the following conditions:

(a) the Adjudicator being satisfied that the subject matter of the Counterclaim is reasonably and directly related to the circumstances surrounding the Claim and that it is capable of giving rise to a Final Award and that the Counterclaim is made in good faith against the Complainant;

(b) the formulation of the Counterclaim having been agreed to the satisfaction of the Firm and the Ombudsman;

(c) the Counterclaim as so formulated ("the Counterclaim") will forthwith be notified to the Complainant.

24.2 Where a Counterclaim has been notified to the Complainant and has not been withdrawn, the Adjudicator shall discontinue the proceedings unless the Complainant has specifically consented in writing to the Adjudicator continuing with the proceedings. Where the proceedings are discontinued, all parties shall be released from the submission to adjudication and be free to pursue any other remedy.

Obligation to Co-operate

25.1 Once the Adjudicator has commenced to act each party will be obliged, in addition to any other specific requirements of the Adjudicator, to co-operate in the provision of evidence as the Adjudicator may direct and the Adjudicator may draw such inferences from any failure to obey such direction as he sees fit. Without limiting the foregoing obligation, each party shall comply with any direction of the Adjudicator to do any of the things specified in subparagraphs (a) to (e) of paragraph 15.1 above as if "Adjudicator" were substituted for "Ombudsman" in those paragraphs.

Rules regarding the receipt and passing on of information

26.1 In the course of the adjudication procedure, the Adjudicator will obtain information either from his own enquiries (as referred to in paragraph 23.2 above) or from the parties themselves. Any information made available to the Adjudicator for the purposes of adjudication must be made available to both parties and the parties shall be given a reasonable opportunity of commenting upon or answering such information; for this purpose information must be made available either in writing or if not in writing must be summarised by the Adjudicator before being made available to both parties.

26.2 A copy of the papers before the Ombudsman (referred to in paragraph 16.1 above) will be made available to the Adjudicator, who will make a copy available to both parties. They will be invited to indicate to the Adjudicator to what extent any matters contained within that file are not accepted by either party.

26.3 Paragraphs 38.1 and 39.1 apply generally to the confidentiality of information provided to the Adjudicator during the course of the adjudication process.

Adjudicator's award

27.1 Save as otherwise provided in paragraphs 28.1 to 29.4 the Adjudicator shall make a final award for the full amount which he considers to be due after taking into account all defences, Counterclaims and set-offs (a "Final Award").

Awards which exceed Specified Maximum or Claim Limit

28.1 Where the overall result of the Adjudicator’s adjudication (taking account of the provisions of paragraph 27.1) would be an amount payable by a Firm exceeding:

(a) the Specified Maximum where one has been agreed, or
(b) the Claim Limit where there is no agreement either for a Specified Maximum or for adjudication free of any Claim Limit,

the Adjudicator shall issue a conditional award which will not be (and which shall state that it is not) binding upon the parties (a "Conditional Award") and the Adjudicator will, by written notice to the Firm, invite the Firm to agree to a Specified Maximum to cover the amount stated in the Conditional Award.

28.2 If, within 10 business days, the Firm gives to the Adjudicator written notice of agreement to a Specified Maximum to cover the amount stated in the Conditional Award, the Adjudicator will publish a Final Award, final and binding upon the parties, accordingly.

28.3 If the Firm does not so agree, the Adjudicator will by written notice to the Complainant, invite the Complainant to waive and abandon the excess above the Specified Maximum or the Claim Limit as appropriate. If, within 15 business days the Complainant gives written notice to the Adjudicator that he waives and abandons the excess, then the Adjudicator will publish a Final Award, final and binding upon the parties, accordingly.

28.4 In the absence of a notice under either paragraph 28.2 or 28.3 above the Adjudicator will be unable to publish a Final Award. He will therefore give notice to the parties terminating the adjudication proceedings and thereafter the Complainant and the Firm and any other party shall each be free to take any other legal steps open to them in relation to the Claim and any Counterclaim and no part of the Conditional Award will be binding upon them.

Awards against Complainant

29.1 Where the overall result of the Adjudicator’s adjudication after taking into account all defences, Counterclaims and set-offs would be that any amount (of any size) would be payable by the Complainant, the Adjudicator shall issue a Conditional Award and the Adjudicator will, by written notice to the Complainant, invite the Complainant to agree that the Adjudicator has power to make such an award.

29.2 If within 15 business days, the Complainant gives to the Adjudicator written notice of agreement that the Adjudicator has power to make such an award and that the Complainant has no objection to his doing so (but without prejudice to any right of appeal), the Adjudicator will publish a Final Award, final and binding upon the parties, accordingly.

29.3 If the Complainant does not so agree, the Adjudicator will by written notice to the Firm, invite the Firm to agree that the Counterclaim shall be treated as a defence and set off only and to waive and abandon payment from the Complainant in respect of that Counterclaim. If within 10 business days the Firm does by written notice to the Adjudicator so agree, then the Adjudicator will publish a Final Award, final and binding upon the parties, accordingly.

29.4 In the absence of a notice under either paragraph 29.2 or 29.3 above the Adjudicator will be unable to publish a Final Award. He will therefore give notice to the parties terminating the adjudication proceedings and thereafter the Complainant and the Firm and any other party shall each be free to take any other legal steps open to them in relation to the Claim and any Counterclaim and no part of the Conditional Award will be binding upon them.

Awards final and binding

30.1 A Final Award (but not a Conditional Award) shall be final and binding in respect of all legal causes of action which the Complainant may have in relation to the Claim or which the Firm may have in relation to the Counterclaim, whether arising under any Customer Agreement or other contract, at common law, under Section 62 of the Act or any other statutory provision or otherwise.

30.2 A Final Award shall be made in writing and shall state the reasons on which it is based.

Appeals

31.1 For the purposes of the Rules of the Supreme Court a Final Award shall be deemed to be published on the day 30 days after the day on which it is notified in writing to the parties. Either party, with leave of the court, may appeal on a point of law to the High Court as provided in the Arbitration Act 1979. The Investment Ombudsman shall notify the Complainant of such right of appeal.

Note:

The time limit for any appeal or other challenge to the award, under the Arbitration Act 1979, is 21 days after the day of publication of the award to the parties or (if later) 21 days after the date upon which the reasons for the award are given.
Joinder of other Parties

32.1 Except with the express consent of the Ombudsman or Adjudicator (and then only in accordance with paragraph 32.2 below) or as provided in paragraph 32.3 below, neither the Complainant nor the Firm shall be permitted to join any other party in any adjudication or investigation proceedings. Where either party alleges that a third party was responsible in whole or in part for the events out of which the Complaint, Claim or any Counterclaim arose, a Complaint, Claim or Counterclaim against the third party may not be brought before the Ombudsman or Adjudicator save with the Ombudsman’s, or, as the case may be, the Adjudicator’s consent.

32.2 The Ombudsman and Adjudicator shall each have power to join another party to the proceedings, whether as a further Complainant or a further Firm or a third party, but only:
(a) in the circumstances set out in paragraph 8.3 or 8.5; or
(b) on condition that:
(i) the existing parties all consent to the joinder; and
(ii) in the case of adjudication the party to be joined consents and signs a written submission to adjudication in accordance with paragraph 21.1 above (but amended with the appropriate changes being made as the Ombudsman or Adjudicator may require) or in the case of investigation the party to be joined consents.

32.3 However, in any case where the Firm wishes to join its Appointed Representative as a further party to the proceedings, it shall be entitled to do so and the consent of the original Complainant to such joinder shall not be necessary. It shall be a condition of such joinder that the party to be joined consents and in the case of adjudication signs a written submission to adjudication in accordance with paragraph 21.1 above (but amended with the appropriate changes being made as the Ombudsman or Adjudicator may require) and that the Firm binds itself to the satisfaction of the Ombudsman or Adjudicator to be jointly and severally liable with its Appointed Representative in respect of any Agreed Settlement or Final Award made against the latter.

Effect of IMRO Disciplinary Proceedings against the Firm

33.1 IMRO will inform the Investment Ombudsman of any disciplinary proceedings that it is bringing or proposing to bring against a Firm where IMRO is aware that the Firm is involved in investigation or adjudication proceedings. This information will include details of any charges or likely charges. Thereafter the Ombudsman or Adjudicator may at his sole discretion stay his proceedings, without giving any reasons.

33.2 In the event of such a stay the Complainant may give notice to the Ombudsman or Adjudicator terminating his agreement to the investigation or, as the case may be, to the adjudication proceedings. Thereafter the Complainant and the Firm and any other party shall each be free to take any other legal steps open to any of them in relation to the Complaint, Claim or Counterclaim.

33.3 If the IMRO disciplinary proceedings have been concluded, and such proceedings have resulted in a finding against the Firm which is made public, the public statement (including any finding of fact or any other penalty, where relevant) will be provided by IMRO to the Investment Ombudsman. The Ombudsman or Adjudicator may then resume the stayed proceedings (unless the Complainant has given notice terminating the investigation or adjudication proceedings under paragraph 33.2 above) with that public statement as evidence before him. If the IMRO disciplinary proceedings do not result in any published finding, IMRO will merely inform the Investment Ombudsman that those proceedings are concluded, and the Ombudsman or Adjudicator may resume his stayed proceedings.

Effect of other disciplinary or criminal proceedings

34.1 The Ombudsman or Adjudicator may at his sole discretion stay his proceedings without giving reasons if at any time during an investigation or adjudication proceedings it has come to his notice that disciplinary proceedings by any other regulatory authority or criminal proceedings are being or are likely to be brought against:
(a) the Firm which is the subject of the Complaint; or
(b) an Appointed Representative of that Firm who has either been joined to proceedings under paragraph 32.3 above or for whose act or omission the Firm may be liable as referred to in paragraph 22.1 above; or
(c) a Registered Individual employed in that Firm and whose actions or omissions are the subject of the Complaint against the Firm.
34.2 In the event of such a stay the Complainant may give notice to the Ombudsman or
Adjudicator terminating his agreement to the investigation or, as the case may be, to the
adjudication proceedings and thereafter the Complainant and the Firm and any other party shall
each be free to take any other legal steps open to any of them in relation to the Complaint,
Claim or Counterclaim.

34.3 If it subsequently comes to the notice of the Ombudsman or Adjudicator that the
disciplinary proceedings or criminal proceedings have been finally concluded, the Ombudsman or
Adjudicator may then resume the stayed proceedings (unless the Complainant has given notice
terminating the investigation or adjudication proceedings under paragraph 34.2 above). Such
details (if any) of the finding, conviction or acquittal as the case may be, (including any
finding of fact or any penalty where relevant) as shall have come to his notice may be
introduced as evidence before him in such resumed proceedings.

Costs and Expenses

35.1 A Complainant availing himself of the services of the Investment Ombudsman will pay no
fees or charges in respect of the costs incurred in providing the investigation and
adjudication service described in this Memorandum, except pursuant to any condition imposed by
the Ombudsman or Adjudicator under paragraphs 10.2 and 36.1 to which the Complainant has
agreed or under paragraph 23.4 above. IMRO shall in no event pay or contribute to expenses
incurred by the parties in any investigation or adjudication.

Representation and Advice

36.1 Legal or other representation will only be allowed in the case of the investigation or
adjudication procedure if the Ombudsman or Adjudicator decides that it should be permitted,
either generally in relation to the case or in relation to any particular aspect of the case.
Such permission will usually only be given where the Ombudsman or Adjudicator considers that
such representation will assist him in his duties. In reaching such a decision he may attach
any reasonable condition to his permission, including a condition that any party requesting
representation shall pay any other party's reasonable costs of obtaining equivalent
representation.

36.2 The Ombudsman or Adjudicator may himself take any professional or other expert advice in
relation to any of the issues raised before him by the parties in either the investigation or
the adjudication procedure.

Notices

37.1 Every notice provided for under this Memorandum ("Notice") shall be in writing, given
either by letter or by telex or by facsimile.

37.2 Every Notice to the Ombudsman or Adjudicator shall be sent or delivered to him at:
The Office of the Investment Ombudsman
6 Frederick’s Place
London EC2R 8BT
Telephone No: 0171-796 3065
or at such other address of which he may give notice in accordance with this paragraph.

37.3 Every Notice to a Firm shall be sent or delivered to the Firm at the address in the
United Kingdom given in its Application Form (as defined in the IMRO Rules) or such other
address in the United Kingdom as the Firm has notified to IMRO.

37.4 Every Notice to a person who is not a Firm shall be sent or delivered to that person’s
last known address.

37.5 Subject to paragraph 37.7 below any Notice given or served by telex or facsimile shall be
confirmed by delivering or sending a written confirmation by letter to the party to whom the
Notice is given; provided it is so confirmed, it shall be deemed to have been given or served
on the date of despatch of the telex or facsimile; in proving that any such Notice was so
given it shall be necessary only to prove the despatch of such telex or facsimile and of such
confirmation.

37.6 Subject to paragraph 37.7 below any other Notice shall be deemed to be served, in the
case of personal service, at the time of delivery, and in any other case, 48 hours after the
letter duly addressed and stamped for first class mail is put into the post.

37.7 Notwithstanding the foregoing any notice to the Ombudsman or Adjudicator shall be
effective only upon actual receipt.

Information to IMRO

38.1 On receipt of a Complaint, the Investment Ombudsman will inform IMRO of the existence and
subject matter of that Complaint, including the basic facts of it and the identity of the
parties. In the case of an adjudication the Investment Ombudsman will send IMRO a copy of the
Claim, any Counterclaim and any defence to that Claim or Counterclaim. The Investment Ombudsman will also inform IMRO of the outcome of the Complaint, whether this is following an investigation, adjudication or otherwise.

Confidentiality of information

39.1 By participating in the investigation or adjudication process, the parties acknowledge that information which is confidential or which is not generally available is likely to be disclosed during the course of those proceedings. Accordingly, subject to paragraph 38.1, neither the Investment Ombudsman nor any of the parties will disclose such information to any person who is not concerned with the proceedings unless:

(a) the Investment Ombudsman and the parties each give their written agreement to that disclosure; or

(b) the Investment Ombudsman or any of the parties has good reason to believe that:

(i) a criminal offence may be involved;

(ii) a serious breach of a rule of any SRO or of FSA may be involved; or

(iii) he is otherwise under a legal duty to disclose, and the disclosure is then made in good faith in discharge of that duty; or

(c) the Investment Ombudsman is called upon by the Committee to disclose information to it about a Complaint or a group of Complaints, but such information shall be used by the Committee solely for the purpose of discharging its functions under paragraph 4.3.

Note:

This paragraph does not prevent disclosure of information to a legal adviser or to any other adviser who assists a Complainant in the formulation of his claim, under paragraph 19.1.

Commencement and Transitional Arrangements

40.1 This Memorandum became effective on 1 May 1995 and applies to all Complaints received by the Investment Ombudsman after that date. Except to the extent described below, this Memorandum replaces all previous Memoranda.

40.2 Any Complaint received by the Investment Ombudsman prior to 1 May 1995 will continue to be dealt with in accordance with the previous Memorandum dated August 1988.

SECTION 6- DEFINITIONS SCHEDULE

This Section contains the principal definitions referred to in this Memorandum. Other terms have the meaning set out in the Definitions Schedule to the IMRO Rulebook.


Adjudicator has the meaning given in paragraph 2.3 of this Memorandum.

Agreed Settlement has the meaning given in paragraph 17.2 of this Memorandum.

Appointed Representative means a person:

(a) who is employed by an Authorised Person (his "principal") under a contract for services which:

(i) requires or permits him to carry on Investment Business to which Section 44 of the Act applies; and

(ii) complies with sub-sections (4) and (5) of Section 44 of the Act; and

(b) for whose activities in carrying on the whole or part of that Investment Business his principal has accepted responsibility in writing.
Authorised Person means:
(a) a person authorised under Chapter III of Part I of the Act; or
(b) a European Investment Firm carrying on Home Regulated Investment Business in the UK.

Board means the Board of directors of IMRO or any duly authorised committee of such Board.

Claim has the meaning given in paragraph 19.1 of this Memorandum.

Claim Limit has the meaning given in paragraph 10.1 of this Memorandum.

Collective Investment Scheme has the meaning given in Section 75 of the Act.

Committee has the meaning given in paragraph 4.1 of this Memorandum.

Complainant means:
(a) a Customer, or a customer in relation to Investment Services provided by a Firm whilst it was subject to the rules or FSA, or of any SRO or Recognised Professional Body (whether or not it was regulated by IMRO at the time the Complaint was made); or
(b) a holder of units or the equivalent in any Collective Investment Scheme of which a Firm is or was at the time of the Complaint the Operator or Trustee; or
(c) a trustee or beneficiary of an OPS.

Complaint means a complaint made by or with the authority of a Complainant to a Firm or any Appointed Representative of the Firm concerning the Firm's Permitted Business or Investment Business conducted by the Firm whilst it was subject to the rules of FSA, or of any SRO or Recognised Professional Body (whether or not it was regulated by IMRO at the time the complaint was made).

Counterclaim has the meaning given by paragraph 24.1 of this Memorandum.

Customer means:
(a) any person to whom the Firm provides Investment Services; or
(b) in relation to transactions which the Firm effects (or agrees or offers to effect), the person who is the counterparty or proposed counterparty if:
   (i) in relation to the transaction concerned that person is or was a customer of the Firm under (a) above; or
   (ii) the Firm holds himself out as a Market Maker or as a dealer (rather than an investor) in Investments; or
(c) a customer of an Appointed Representative of a Firm with or for whom the representative acts in the course of business for which the Firm has accepted responsibility;
and includes an Indirect Customer and a potential customer but does not include:
(d) a Market Counterparty;
(e) a Trust Beneficiary; and

(f) where a Firm carries on Regulated Business with or for a person as a result of either carrying on Corporate Finance Business with or for a Customer, or carrying on Corporate Finance Business for its own account, that former person in connection with that Regulated Business if:

(i) the Firm is carrying on, or proposing to carry on, Regulated Business with that person solely in his capacity as a member of the public, or as a member of a particular company, or as the holder of an Investment of a particular class;

(ii) other than where the Firm is arranging or seeking to arrange underwriting or sub-underwriting commitments, there is no material difference between the way in which the Firm communicates or deals with the person and the way in which it communicates or deals with other members of the public, or other members of the company concerned, or other holders or prospective holders of Investments of the size or class concerned, or other creditors or contingent creditors of the company concerned; and

(iii) the Firm clearly indicates to the person that:

(A) it is acting for another person; and

(B) it will not be responsible to him for providing Best Execution in respect of, or advising him on the suitability of, the relevant transaction.

Customer Agreement means any agreement in writing relating to Investment Business to which a Firm and a Customer of the Firm are parties.

Deputy Ombudsman means the person or persons appointed by IMRO for the purpose of the Memorandum to assist the Investment Ombudsman and to act in his absence.

Dual Complaint has the meaning given in paragraph 11.1 of the Memorandum.

Final Award has the meaning given in paragraph 27.1 of the Memorandum.

Financial Loss means actual or prospective financial loss as a result of the subject matter of the Complaint, but excludes financial loss which represents costs or disbursements, whether sustained or to be sustained, directly or indirectly, by the Complainant in relation to the Complaint.

Firm means a person, duly admitted to membership of IMRO in accordance with IMRO’s Admission Procedures and whose membership has not been terminated in accordance with the Rules, and reference to a Firm shall include references to more than one Firm admitted on a collective basis.

For the purposes of Rules 1.2(1) to (4) of Chapter IV and the Rules in Chapter VIII, "Firm" includes a Firm whose membership has been suspended or who, within one year after it has ceased its membership, has had served upon it a notice informing it that:

(a) IMRO has exercised an Intervention against it;

(b) IMRO has authorised an Investigation into its conduct or affairs;

(c) IMRO has commenced disciplinary proceedings against it.

Note: In relation to a Unit Trust Scheme or other Collective Investment Scheme "Firm" has the extended meaning envisaged by paragraph 8.1.
FSA means the Financial Services Authority

IMRO means Investment Management Regulatory Organisation Limited.

Investment Business means:

(a) the business of engaging in one or more of the activities which fall within the paragraphs in Part II of Schedule 1 to the Act and are not excluded by Part III of that Schedule; and

(b) ISD Investment Services, to the extent provided for in the ISD Regulations.

Investment Ombudsman means the person appointed by IMRO for the purpose of the Memorandum to consider Complaints through investigation and, where appropriate, adjudication.

Memorandum means the Ombudsman Memorandum as determined from time to time by the Board of IMRO.

Notice has the meaning given in paragraph 37:1 of the Memorandum.

Ombudsman means the person, being either the Investment Ombudsman or a Deputy Ombudsman, who in relation to a particular Complaint acts as investigator:

Ombudsman Memorandum means the memorandum setting out the object, powers and functions of the Investment Ombudsman.

Operator (a) in relation to a Unit Trust Scheme with a separate trustee, means the manager;
(b) in relation to an Open-ended Investment Company means both that company and any person appointed to manage the assets of the company on its behalf;
(c) in relation to an Investment Trust Saving Scheme, means the person appointed by those responsible for managing the assets of the Investment Trust and, in relation to other types of Collective Investment Scheme, means the person appointed to manage the Scheme and/or the assets of the Scheme.

Permitted Business means:

(a) the kinds of Investment Business and other activities set out in Table 2.2(1) of Chapter VII; or
(b) in relation to a European Firm, Home Regulated Investment Business; as specified in a written statement which IMRO has for the time being accepted in writing that a Firm is permitted to carry on in the UK or, in the case of an ISD Firm, either in the UK or a Host State.

Principles means the Statements of Principle made by FSA on 15 March 1990 under Section 47A of the Act, which express the standards of conduct expected of all Authorised Persons.

Recognised Professional Body means a body declared by an order of the Secretary of State for the time being in force to be a recognised professional body for the purposes of the Act.

Registered Individual means an individual who is registered by IMRO as permitted to carry on one or more Registrable Activities. For the purposes of Rules 1.2(2) to (4) of Chapter IV and the Rules in Chapter VIII, “Registered Individual” includes an individual whose registration has been treated as inactive or suspended or who, within one year after he has ceased to be a Registered Individual, has had served upon him a notice informing him that:
(a) IMRO has exercised an Intervention against him;
(b) IMRO has authorised an Investigation into his conduct or affairs;
(c) IMRO has commenced disciplinary proceedings against him.

Rules means the Rules (including any regulations) made by the Board, as altered, amended, added to or cancelled from time to time whether by the Board or pursuant to the Act, together with the Statutory Rules.

SIB see FSA

Specified Maximum has the meaning given in paragraph 10.2 of the Memorandum.

Specified Trustee Business means any Investment Business carried on in the UK by a Trustee Firm, but excluding each of the following activities:
(a) Dealing or arranging deals in Investments
   (i) where the deal is transacted or arranged by a Trustee Firm with or through a PTP; or
   (ii) where the dealing or arranging is done in the course of, or is incidental to, an activity of management falling within paragraph (b) below; or
   (iii) where the trust is a Unit Trust Scheme and the deal is or the arrangements are made with a view to either an issue or sale of units in such a Scheme to, or a redemption or repurchase or conversion of such units or a dealing in investments for such a Scheme carried out by with or through, the Operator or on the instructions of the Operator; or
   (iv) where the Trustee Firm, being a bare trustee (or, in Scotland, a nominee) holding Investments for another person, is acting on that person's instructions; or
   (v) where any arrangements do not or would not bring about the transaction in question.
(b) Managing Investments
   (i) where the Trustee Firm has no general authority to effect transactions in Investments at discretion; or
   (ii) if and to the extent that all day-to-day decisions in relation to the management of the Investments or any discrete part of the Investments are or are to be taken by a PTP; or
   (iii) if and to the extent that investment decisions in relation to the Investments or any discrete part of the Investments are or are to be taken substantially in accordance with the advice given by a PTP; or
   (iv) where the Trustee Firm is a personal representative or executor and is acting in that capacity; or
   (v) where the trust is a Unit Trust Scheme and all day-to-day investment decisions in the carrying on of that activity are or are to be taken by the Operator of the Scheme.
(c) Investment advice
   (i) where the relevant advice:
      (A) does not recommend the entry into any investment transaction or the exercise of any right conferred by any Investment to acquire, dispose of underwrite or convert such an Investment; and
      (B) is accompanied by a recommendation that independent advice be obtained; or
   (ii) if and to the extent that the relevant advice is in substance the advice of a PTP; or
   (iii) where the relevant advice is given by the Trustee Firm acting in the capacity of personal representative or executor.
(d) Establishing, operating or winding up a Collective Investment Scheme including acting as trustee of an Authorised Unit Trust Scheme but only to the extent that such activities do not otherwise constitute Specified Trustee Business.
(e) Any Trustee Activity undertaken as trustee of an issue of debentures or government or public securities
   (i) where the issue is made by a company listed on a Recognised Investment Exchange or on a Designated Investment Exchange (or by a wholly-owned subsidiary of such a company); or
   (ii) where the issue is listed or traded either on a Recognised Investment Exchange or on a Designated Investment Exchange or on the Société de la Bourse de Luxembourg; or
   (iii) where the issue is made by a government, local authority or
public authority; or
(iv) where the aggregate amounts issued (pursuant to the trust deed or any deed supplemental thereto and ignoring any amounts redeemed, repurchased or converted) exceed the sum of £10,000,000.

2 For the purpose of this definition of "Specified Trustee Business":
(a) a transaction is entered into through a person if that person:
(i) enters into it as agent; or
(ii) arranges for it to be entered into as principal or agent by another person and the arrangements are such that they bring about the transaction in question;
(b) investment transaction means a transaction to purchase, sell, subscribe for or underwrite a particular investment and "investment decision" means a decision relating to an investment transaction;
(c) debentures means any securities falling within the definition contained in paragraph 2 of Schedule 1 to the Act;
(d) government or public securities means any securities falling within the definition contained in paragraph 3 of Schedule 1 to the Act;
(e) government, local authority or public authorities has the meaning ascribed in paragraph 3 of Schedule 1 to the Act;
(f) in determining the size of an issue of debentures or government or public securities made in a currency other than sterling, the amount of the issue shall be converted into sterling at the exchange rate prevailing in London on the date of issue.

SRO means a body regulating the carrying on of Investment Business, declared to be a self-regulating organisation under Section 10 of the Act.

Unit Trust Scheme means a Collective Investment Scheme under which the property in question is held on trust for the participants but excluding, for the purposes of the Rules, limited partnerships.

DEFINITIONS SCHEDULE

1. DEFINITIONS

DEFINITIONS (A-E)

The following words or terms throughout the Rules are to have the meanings given to them below if not inconsistent with the subject or context:

Acceptable Collateral means any of the following items of collateral provided to a Firm by a Counterparty:

ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15

(a) cash;
(b) gold and silver bullion and coinage
(c) certificates of deposit;
(d) Securities issued by Zone A governments and banks;
(e) Securities issued by the EIB or by multilateral development banks, discounted by 20 per cent;

(i) the Firm must have an unconditional right to apply to realise such collateral for the purpose of repaying the Counterparty's obligations to the Firm;
(ii) Securities must be marked to market daily; and
(iii) each item of such collateral must be discounted by 8 per cent if it is denominated in a different currency to the Counterparty's obligations.
Accounting Records means Rules 3.1(1) to 3.2(9) of Chapter V.

Rules
ISD Firms 1.1.96;
RN15 Non-ISD Firms 1.7.96; RN15

Accounting Reference means:
Date
1.3.93; RS6 (a) the date to which a Firm’s accounts are prepared in order to comply with the Companies Act or, in the case of a Firm not subject to the Companies Act, the equivalent date selected by the Firm; and (b) in the case of an OPS Firm which is not subject to the Companies Act, the date to which the accounts of the OPS in respect of which the Firm acts are prepared.

Accredited In-House Examination means an examination conducted by the Firm which has been accredited by the IMRO Training Standards Panel as meeting the standards required.

1.7.94; RS8

30.11.91

Ad Hoc Financial Notification Rules means Rules 5.1(1) to (10) of Chapter V.
ISD Firms 1.1.96;
RN15 Non-ISD Firms 1.7.96; RN15

Adjudicator means an individual appointed by the Investment Ombudsman to adjudicate on a Complaint or Dual Complaint.
1.5.95; RN11

Administration Functions means those functions carried out by a Firm in connection with its Investment Business including any of the following activities:
1.1.98; RN33 (a) custody of clients' monies and assets;
(b) arranging settlement;
(c) monitoring and processing corporate actions and income;
(d) client administration liaison and reporting, including valuation and performance measurement;
(e) PEP administration;
(f) Collective Investment Scheme administration; and
(g) Investment Trust Savings Scheme administration.

Admission Appeal means an appeal from a refusal by the Admissions Committee of an application for membership or registration, or from the imposition of Special Conditions, which is heard and determined by the Appeal Tribunal under the Rules in Section 7 of Chapter VIII.
16.2.96; RN24

Admission Procedures means the procedures set out in Chapter VII of the Rules together with any other procedures which the Board resolves, either generally or in relation to any specific case, should apply to the admission of Firms and the admission of Registered Individuals.
1.5.94; RS8

Admissions Committee means any committee duly authorised by the Board and designated an Admissions Committee.
16.2.96; RN24

Advertisement(s.207(2) of the Act) includes every form of advertising, whether in a publication, by the display of notices, signs, labels or show cards, by means of circulars, catalogues, price lists or other documents, by an exhibition of pictures or photographic or cinematographic films, by way of sound broadcasting or television, by the distribution of recordings, or in any other manner.
30.11.91

Note: See also the following defined terms:
Investment Advertisement, Direct Offer Advertisement, Specific Investment Advertisement and Exempt Advertisement.

**Advertiser**
30.11.91.

means anyone by whom an Advertisement is issued or caused to be issued, whether or not that person takes direct responsibility for the contents, timing or medium of the Advertisement.

**Advertising Rules**
16.2.96; RN24

means Rules 1.1(1) to (4), 1.2(1), 1.3(1), 8.1(1), 8.2(1) and (2) of Chapter II.

**agent**
30.11.91

in relation to a person, means any person (including an employee) who acts on that person’s behalf.

**Ancillary**
30.11.91

in relation to an Investment, means any right to or interest in that Investment which falls within paragraph 11 of Schedule 1 to the Act.

**Annual Accounts**
1.3.93; RS6

means accounts prepared to comply with the Companies Act or other statutory obligations.

**Annual Audited Expenditure**
ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15

has the meaning given in Rule 2.4(1) of Chapter V.

**Annual Financial Return**
ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15

means the return in Table 3.2(6)(a) of Chapter V.

**Appeal Tribunal**
30.11.91

means the tribunal set up for the purposes of hearing and determining the matters referred to it under Rules 7.1(1) and (2) of Chapter VIII.

**Applicant**
16.2.96; RN24

means, as the context requires, a person who has applied, or is in the course of applying, to IMRO:
(a) for admission to membership; or
(b) for admission as a Registered Individual.

**Application Form**
1.5.94; RS8

means, as the context requires, the relevant membership application form or registration application form prescribed by IMRO, together with the relevant completed questionnaires and all information submitted therewith or thereafter in connection with the application.

**Appointed Representative**
30.11.91

means a person:
(a) who is employed by an Authorised Person (his "principal") under a contract for services which:

(i) requires or permits him to carry on Investment Business to which Section 44 of the Act applies; and
(ii) complies with subsections (4) and (5) of Section 44 of the Act; and

(b) for whose activities in carrying on the whole or part of that Investment Business his principal has accepted responsibility in writing.
**Appropriate Personal Pension Policy or Contract**

30.11.91

Means a personal pension policy or contract under which contributions are made to a Personal Pension Scheme which is an appropriate scheme under Section 1(8) of the Social Security Act 1986 or article 3(8) of the Social Security (Northern Ireland) Order 1986.

**Approve**

30.11.91

In relation to an Investment Advertisement, means approve for the purposes of Section 57 of the Act.

**Approved Bank**

31.3.92; RR1

Means:

(a) an approved bank within the meaning of the Client Money Regulations; or

(b) an institution which is authorised as a bank under the laws of a Member State or under the laws of Guernsey, Jersey or the Isle of Man.

**Approved Examination**

1.7.94; RS8

Means an examination conducted by a non-Firm examining body which has been approved by the IMRO Training Standards Panel as meeting the standards required.

**Approved Exchange**

30.11.91

Means a Recognised Investment Exchange approved by the Secretary of State for the purposes of Part V of the Act.

**Approved Fund**

30.11.91

Means a Business Expansion Scheme fund approved by the Board of Inland Revenue for the purposes of Section 311 of the Income and Corporation Taxes Act 1988.

**Articles**

30.11.91

Means the Articles of Association of IMRO, as amended from time to time.

**Associate**

30.11.91

In relation to a person, means:

(a) an undertaking in the same Group as that person;

(b) an Appointed Representative of the first person or of any undertaking in the same Group; and

(c) any other person whose business or domestic relationship with the first person or its Associate might reasonably be expected to give rise to a community of interest between them which may involve a conflict of interest in dealings with third parties.

**Associated Business**

3.10.96; RN31

Means business which is carried on in connection with Investment Business, other than the business of engaging in one or more of the activities which fall within paragraph 18 in Part III of Schedule 1 to the Act.

**Audit Rules**

30.11.91

Means Rules 6.1(1) to (12) of Chapter V.

**Auditing Standards**

30.11.91

Are those statements of auditing standards which are approved for issue by the Councils of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland and the Chartered Association of Certified Accountants, and which are effective for the period covered by the financial statements on which the auditor is reporting.

**Authorised Corporate Director**

3.2.97; RN34

Has the meaning given in the Open-Ended Investment Companies Regulations.

**Authorised Person**

1.2.96; RN23

Means:

(a) a person authorised under Chapter III of Part I of the Act; or

(b) a European Investment Firm carrying on Home Regulated Investment Business in the UK.
Authorised Signatory 30.11.91 means any individual who, either individually or jointly with another, is duly authorised and empowered to sign on behalf of the Firm communications to be given to IMRO under the Rules.

Authorised Unit Trust Manager 30.11.91 means the manager of an Authorised Unit Trust Scheme.

Authorised Unit Trust Scheme 30.11.91 means a Unit Trust Scheme authorised for the purposes of the Act.

Bank 30.11.91 means a Body Corporate or partnership carrying on the business of banking and a trustee savings bank or other savings bank established under any legislation.


BES 15.2.94; RS8 means a Business Expansion Scheme or an Enterprise Investment Scheme.

BES Fund 31.3.92, RR1 means an arrangement which, by virtue of paragraph 34 of Schedule 1 to the Act, is not a Collective Investment Scheme for the purposes of that Schedule.

BES Managed Portfolio 30.11.91 means a Managed Portfolio which is to be invested wholly or mainly in BES Shares.

BES Scheme 30.11.91 means an arrangement which is a BES Managed Portfolio or a BES Fund.

BES Scheme Manager 30.11.91 in relation to a BES Managed Portfolio, means the Investment Manager and, in relation to a BES Fund, means the manager of the fund.

BES Scheme Particulars 30.11.91 means:
(a) where a Firm is not the BES Scheme Manager or an Associate of the BES Scheme Manager, a document which that Firm has reason to believe contains all the matters, so far as applicable set out in Table 8.2(1) of Chapter II; and
(b) in any other case, a document which contains (and is not merely believed by a Firm to contain) the matters, so far as applicable, set out in Table 8.2(1) of Chapter II.

BES Share 30.11.91 means a share in a company in relation to which the beneficial owner of the share may, subject to his individual circumstances, be qualified for relief by virtue of Chapter III of Part VII of the Income and Corporation Taxes Act 1988.

BES Subscriptions 30.11.91 means monies subscribed:
(a) in the case of a BES Managed Portfolio, by the customer of the BES Scheme Manager whose portfolio it is; and
(b) in the case of a BES Fund, by the participants in the BES Scheme.

Best Execution 30.11.91 in relation to the effecting of a transaction, means the effecting of that transaction in compliance with Rule 3.8 of Chapter II.
means the Board of directors of IMRO or any duly authorized committee of such Board.

includes a body corporate constituted under the law of any country or territory.

includes broker-dealer.

means an Independent Intermediary who has, or whose Associate has, an arrangement with a Life Office, or with the Operator of a Regulated Collective Investment Scheme, under which it is to be expected that the Life Office or Operator will take into account the advice of that Independent Intermediary or his Associate in determining either:

(a) any matter likely to influence the performance of any of the funds of the Life Office or of any Investment issued by the Life Office into which cash contributions of that Independent Intermediary’s Customers or his Associate’s Customers have been made; or

(b) the composition of the property of the Scheme into which cash contributions of that Independent Intermediary’s Customers or his Associates Customers have been made.

IMRO considers that the definition of a Broker Fund Adviser would not normally include arrangements relating to the management of personal insurance and investment bonds, under which a Customer has the right to select the investments which constitute the fund to which the bond relates. While the terms of the policy will dictate the nature of the arrangements, where the Customer appoints an Authorised Person to manage the fund on his behalf, that person would be regarded generally as an Investment Manager acting for the Customer, rather than as a Broker Fund Adviser.

means a building society within the meaning of the Building Societies Act 1986.

means the programme of operations set out in Table 1.1(1) of Chapter VII.

includes acquire for valuable consideration.


means:

(a) the government or central bank of a Zone A Country;

or

(b) the European Communities; or

(c) the government or central bank of any other country, provided the receivable in question is denominated in that country’s national currency.
Category B Body
ISD Firms 1.1.96, RN15
Non-ISD Firms 1.796, RN15

 means:
(a) the EIB or a multi-lateral development bank; or
(b) the regional government or local authority of a Zone A Country; or
(c) an Investment Firm or Credit Institution authorised in a Zone A Country; or
(d) a Recognised Clearing House or exchange; or
(e) an Investment Firm or Credit Institution authorised in any other country, which applies a financial supervision regime at least equivalent to the Capital Adequacy Directive.

CAT Standards
31.1.99
31.1.99; RN 48

 means the CAT Standards for ISAs as prescribed from time to time by HM Treasury.

Certificates Representing Securities
30.11.91

 means Investments falling within paragraph 5 of Schedule 1 to the Act.

Chairman
1.8.94; RS10

 means, in the context of Chapter VIII, the Chairman of the Disciplinary Tribunal, unless otherwise stated in that Chapter.

Charges
30.11.91

 means any charges made to a Customer in connection with Investment Services, including any Mark-up or Mark-down from the price at which Best Execution would be achieved.

Chief Executive
30.11.91

 includes any person occupying the position of chief executive or managing director (whether solely or jointly) by whatever name called.

Chinese Wall
30.11.91

 means an arrangement within the organisation of a Firm, or between a Firm and any Associate of that Firm, which requires information obtained by the Firm or, as the case may be, Associate in the course of carrying on one part of its business of any kind to be withheld in certain circumstances from persons with whom it deals in the course of carrying on another part of its business of any kind.

Clearance Event
30.11.91

 means any of the events referred to as a Clearance Event in Rule 2.1(1) of Chapter IV.

Client
30.11.91

 has the meaning given to Customer.

Client Bank Account
1.1.92; RS3

 means an account at an Approved Bank within the meaning of the Client Money Regulations.

Client Money
1.1.92; RS3

 has the meaning given to "Client Money" in Regulation 2.01 of the Financial Services (Client Money) Regulations 1991.

Client Money Regulations
1.1.92; RS3


Close Relative
30.11.91

 in relation to an individual, means that individual's spouse, brother, step-brother, sister, step-sister, parent, step-parent, child (natural or adopted) or step-child but excluding any such relative over whom the individual can show on reasonable grounds that he has no significant influence.
Cold Call
30.11.91
means:
(a) a personal visit or oral communication made without express invitation to a person in the UK; or
(b) an oral communication made without express invitation from the UK to a person elsewhere;
and, where the context permits, the act of making any such visit or communication.

Collective Investment Scheme (s.75(1) of the Act)
30.11.91
has the meaning given in Section 75 of the Act.

Commission Equivalent
4.11.96; RN32
means:
(a) any money receivable by a Firm and its Associates, and by any employee of either, from a Product Company or its Associates in connection with a transaction;
(b) the value in cash terms of personal benefits, assistance and services receivable in connection with the transaction by the Firm and its Associates, and by any employee of either; and
(c) a profit element being 115% of the aggregate of (a) and (b), or such other percentage greater than 100% which the Firm reasonably believes, on the basis of advice from an actuary or auditor, to be appropriate.

Companies Act
30.11.91
means the companies Act 1985 and its equivalent in Northern Ireland.

Company
30.11.91
means a Body Corporate or an unincorporated association and, where the context permits, includes a partnership.

Company Representative
30.11.97
in relation to a Firm or an Appointed Representative of a Firm (whether the Firm or the Appointed Representative is a company or not), means an individual who is:
(a) the Firm itself or the Appointed Representative himself, as the case may be, if the Firm or the Appointed Representative is a sole trader; or
(b) an employee, partner or Officer of the Firm or of the Appointed Representative, as the case may be; and whose activities include procuring or endeavouring to procure other persons to enter into Investment Agreements or giving advice to the persons with whom he deals about entering into Investment Agreements or exercising rights conferred by Investments.

Competent Authority
1.1.96; RN18
means, in relation to a Member State, an authority designated by that state to carry out the supervisory functions provided for in the ISD or the Second Banking Co-ordination Directive (Council Directive 89/646/EEC).

Complainant
31.10.97; RN43
means:
(a) a Customer, or a customer in relation to Investment Services provided by a Firm whilst it was subject to the rules of FSA, or of any SRO or Recognised Professional Body (whether or not it was regulated by IMRO at the time the Complaint was made); or
(b) a holder of units or the equivalent in any Collective Investment Scheme of which a Firm is or was at the time of the Complaint the Operator or Trustee or Depositary; or
(c) a trustee or beneficiary of an OPS.
Complaint 31.10.97; RN43 means a complaint made by or with the authority of a Complainant to a Firm or any Appointed Representative of the Firm concerning the Firm’s Permitted Business or Investment Business conducted by the Firm whilst it was subject to the rules of FSA, or of any SRO or Recognised Professional Body (whether or not it was regulated by IMRO at the time the complaint was made).

Compliance Officer 30.11.91 means the individual from time to time appointed by a Firm as responsible for compliance matters.

Compliance Procedures 30.11.91 means the compliance arrangements and procedures required to be established and maintained by each Firm in accordance with the provisions of Chapter IV.

Connected Company and Connected Credit Institution ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15 means, in relation to a Firm which:

(a) is a Body Corporate, a Body Corporate or Credit Institution satisfying any of the following conditions:

(i) the same person is the Controller of each Body Corporate or Credit Institution; or
(ii) if a group of two or more persons are Controllers of each Body Corporate or Credit Institution, the group either consists of the same persons or could be regarded as consisting of the same persons by treating a member of either group as replaced by:
   A. that member’s Close Relative; or
   B. a person with whom the member is in partnership; or
   C. a Body Corporate of which the member is an Officer; or
(iii) both Bodies Corporate are members of the same group; or

(b) is not a Body Corporate, a Body Corporate or Credit Institution which is controlled:

(i) by the Firm; or
(ii) by a partner in the Firm; or
(iii) by a Close Relative or partner in the Firm or, if the Firm is a sole trader, by a Close Relative of the sole trader; or
(iv) collectively by any of the partners in the Firm or their Close Relatives.

Connected Person 30.11.91 in relation to a person, means for the purposes of Rules 1.5(2) to (7) of Chapter IV, anyone connected with him by reason of a domestic or business relationship (other than as arises solely because that person is a Customer of the Firm) such that the Officer or employee has influence over that person’s judgment as to how to invest his property or exercise any rights attaching to his Investments.

Consolidated Supervision ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15 means, in relation to a Firm which is a member of a Group, the application to that Firm, and such other entities within the Group as IMRO considers relevant, of appropriate techniques for the assessment of the financial risks to which the Group and the Firm are exposed.

Consolidated Supervision Rules ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15 means Rules 7.1(1) to (3) of Chapter V.
Contingent Liability means a Derivatives transaction under the terms of which the Customer will or may be liable to make further payments (other than charges, and whether or not secured by margin) when the transaction falls to be completed or upon the earlier closing out of his position.

Transaction 30.11.91

Contract for Differences means an Investment falling within paragraph 9 of Schedule 1 to the Act.

30.11.91

Contract Note means a note containing the essential details of a transaction whether given in writing or electronically.

30.11.91

Control means the relationship between a parent and subsidiary undertaking as defined at Section 258 of the Companies Act 1985 or a similar relationship between any natural or legal person and an undertaking.

ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15

Controller (s.207(5) of the Act) (a) in relation to a Body Corporate, means a person, who, directly or indirectly, either alone or with any associate or associates:

(i) holds 10 per cent or more of the shares in the Body Corporate or another Body Corporate of which it is a Subsidiary; or (ii) is entitled to exercise, or control the exercise of, 10 per cent or more of the voting power at any general meeting of the Body Corporate or another Body Corporate of which it is a Subsidiary;

(b) in relation to an unincorporated association means:

(i) any person in accordance with whose directions or instructions, either alone or with those of any associates, the officers or members of the governing body of the association are accustomed to act (but disregarding advice given in a professional capacity); and (ii) any person who, directly or indirectly, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, 10 per cent or more of the voting power at any general meeting of the association; and

(c) in relation to a Body Corporate and an unincorporated association respectively, means a person who, either alone or with any associate or associates, is able to exercise, or control the exercise of:

(i) a significant influence over the management of the Body Corporate (or another Body Corporate of which it is a Subsidiary) by virtue of a holding of Shares in, or an entitlement to exercise or control the exercise of, the voting power at any general meeting of, the Body Corporate (or such other Body Corporate); or (ii) a significant influence over the management of the unincorporated association;

and, for the purposes of this definition, "associate", in relation to any person, means that person's wife, husband, minor child or step-child, any Body Corporate of which that person is a director, any person who is an employee or partner of that person and, if that person is a Body Corporate, any Subsidiary of that Body Corporate and any employee of any such Subsidiary.

18.7.96; RN30
Controls and Systems Rules 30.11.91 means Rules 4.1(1) to (3) of Chapter V.

Cooling-off Period 9.2.98; RN 44 means the period of time (provided by Rule 2.4(5) of Chapter II) prior to a Customer Agreement coming into force and during which a Customer may withdraw his offer to enter into the Customer Agreement.


Core Investment Service 3.10.96; RN31 means a service listed in Section A of the Annex to the ISD.
Corporate Finance means:

(a) any Investment Service provided to:

(i) an issuer, holder or owner of Investments with regard to the offer, issue, underwriting, repurchase, exchange or redemption of, or the variation of the terms of, the Investments, or any related matter;
(ii) an Ordinary Business Investor, any other company or partnership, or an international or supranational organisation, which relates to the manner in which, or the terms on which, or the persons by whom, any business, activities or undertakings relating to it, or any Associate, are to be financed, structured, managed, controlled, regulated or reported upon;
(iii) any Company in connection with:
   A. a proposed or actual Takeover or Related Operation by or on behalf of, or involving Investments issued by, that Company, or its Holding Company, Subsidiary or associated company; or
   B. a merger, de-merger, re-organisation or reconstruction involving any Investments issued by that Company, or its Holding Company, Subsidiary or associated company;
(iv) any shareholder or prospective shareholder of a Company established or to be established for the purpose of effecting a Takeover or Related Operation in connection with that Takeover or Related Operation;
(v) a person who, acting as a principal for his own account:
   A. is involved in negotiations or decisions relating to the commercial, financial or strategic intentions or requirements of a business or prospective business; or
   B. (provided he is acting otherwise than solely in his capacity as an investor) assists the interests of another person with or for whom the Firm, or another Authorised Person or Overseas Person is undertaking business falling within (i), (ii), (iii) or (iv) above, by himself undertaking all or part of any transactions involved in such business; or
(vi) a person who is undertaking business with or for a person falling within (i), (ii), (iii), (iv) or (v) above in respect of activities described in those sub-paragraphs;

(b) Regulated Business carried on by a Firm as a principal for its own account where such business is:

(i) in the course of, or arises out of, activities undertaken in accordance with (a) above; and
(ii) does not involve transactions with or for, or advice to, other persons who are Private Customers in respect of such business.

Customer means a Customer with or for whom a Firm undertakes Corporate Finance Business.
Counterparty
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means any person with or for whom a Firm carries on Regulated or Associated Business.

Counterparty Risk Requirement
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
has the meaning given in Table 2.3(5)(c) of Chapter V.

Credit Equivalent Amount
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means the amount calculated in respect of OTC Derivative contracts pursuant to Table 2.3(5)(c) of Chapter V.

Credit Institution
1.2.96; RN23

CREST Sponsor
10.11.97; RN42
means a Firm which carries on business falling within paragraph 16A of Schedule 1 to the Act, in relation either to CREST or to the Central Gilts Office.

Current Customer Order
30.11.91
includes both a customer order for immediate execution and, once the condition is fulfilled, a customer order which is only to be executed on fulfillment of a condition.

Custodian
2.2.98; RN37
means a person who safeguards and administers a Customer’s assets within the meaning of paragraph 13A of Schedule 1 to the Act or is a "primary custodian" within the meaning of Note 1 to that paragraph.

Customer
30.11.91; RS2
means:
(a) any person to whom the Firm provides Investment Services; or
(b) in relation to transactions which the Firm effects (or agrees or offers to effect), the person who is the counterparty or proposed counterparty if:

(i) in relation to the transaction concerned that person is or was a customer of the Firm under (a) above; or
(ii) the Firm holds himself out as a Market Maker or as a dealer (rather than an investor) in Investments; or

(c) a customer of an Appointed Representative of a Firm with or for whom the representative acts in the course of business for which the Firm has accepted responsibility; and includes an Indirect Customer and a potential customer but does not include:
(d) a Market Counterparty;
(e) a Trust Beneficiary; and
(f) where a Firm carries on Regulated Business with or for a person as a result of either carrying on Corporate Finance Business with or for a Customer, or carrying on Corporate Finance Business for its own account, that former person in connection with that Regulated Business if:

(i) the Firm is carrying on, or proposing to carry on, Regulated Business with that person solely in his capacity as a member of the public, or as a member of a particular company, or as the holder of an Investment of a particular class;
(ii) other than where the Firm is arranging or seeking to arrange underwriting or sub-underwriting commitments, there is no material difference between the way in which the Firm communicates or deals with the person and the way in which it communicates or deals with other members of the public, or other members of the company concerned, or other holders or prospective holders of Investments of the size or class concerned, or other creditors or contingent creditors of the company concerned; and

(iii) the Firm clearly indicates to the person that:

A. it is acting for another person; and

B. it will not be responsible to him for providing Best Execution in respect of, or advising him on the suitability, of the relevant transaction.

Note: Firms should note the special meanings given to "Customer" by the Rules in Sections 7, 10 and 11 of Chapter II.

Customer Agreement
30.11.91
means any agreement in writing relating to Investment Business to which a Firm and a Customer of the Firm are parties.

Customer Investment
2.2.98; RN37
means an Investment, or a document of title or a certificate or other record evidencing title to an Investment, (other than an Investment falling within paragraphs 7, 8 and 9 of Schedule 1 to the Act) which is legally or beneficially owned by a Customer of a Firm.

Customers' Asset Rules
2.2.98; RN37
means the Client Money Regulations and Rules 5.1(1) to (9) of Chapter II of the Rules.

Customer Title Document
2.2.98; RN37
Deleted.

Customer Transaction
30.11.91
does not include an Own Account Transaction.

deal
30.11.91
includes switching within a Life Policy.

Dealer
1.5.94; RS8
means an individual whose activities include committing a Firm or its Customers in market dealings or in transactions in Securities or in other Investments.

Debenture
30.11.91
means an Investment falling within paragraph 2 of Schedule 1 to the Act.

Default
1.4.95; RN7
in relation to a firm or an Approved Bank, means the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy, or any equivalent procedure in any foreign jurisdiction.

Defined Benefits Pension Scheme
30.11.91
means a Pension Policy or a Personal Pension Contract under which the only money purchase benefits are benefits ancillary to other benefits which are not money purchase benefits.

Depositary
3.2.97; RN34
has the meaning given in regulation 5(1) of the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996.
Derivatives 30.11.91 means Options, Futures and Contracts for Differences.

Designated Investment Exchange 30.11.91 means any investment exchange which is designated by FSA as a designated investment exchange for the purposes of the Financial Services (Conduct of Business) Rules 1990 or the Core Conduct of Business Rules.

DIE Advertisement 30.11.91 means an advertisement:
(a) issued by a Designated Investment Exchange; or
(b) required or permitted to be published by the rules of a Designated Investment Exchange.

Direct Offer Advertisement 30.11.91 means a Specific Investment Advertisement (including a pre-printed or off-the-screen advertisement) which:
(a) contains:
(i) an offer by the Firm or another offer or to enter into an Investment Agreement with anyone who responds to the advertisement; or
(ii) an invitation to anyone to respond to the advertisement by making an offer to the Firm or another offeree to enter into an Investment Agreement; and
(b) specifies the manner or indicates a form in which any response is to be made (for example by providing a tear-off slip).

Director (s.207(1) (Part) of the Act) 30.11.91 means, in relation to:
(a) a Body Corporate, a person occupying in relation to it the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of that body are accustomed to act; and
(b) a person which is not a Body Corporate:
(i) in the case of a partnership, a general partner; and
(ii) in the case of an unincorporated association, any member of the governing body or other equivalent persons.

Direct Supervision 1.7.94; RS8 means:
(a) the appropriate level of review by a competent Company Representative or employee who is not a Trainee of all aspects of the work undertaken by a Trainee to whom Rule 1.1(10) of Chapter IV applies; and
(b) approval by a competent Company Representative or employee who is not a Trainee of all investment decisions and all advice given to Customers.
Note Section 5 of Appendix 1.1(10) "Supervision and Assessment" provides that Direct Supervision may be partially relaxed in the circumstances set out in that section.

Disciplinary Tribunal 1.8.94; RS10 means the tribunal set up for the purpose of hearing and determining the matters referred to it under Section 6 of chapter VIII.

disclosable commission 30.11.91 means commission which the regulatory system requires to be disclosed to a Customer.
**Disclosable Softing** means goods and services supplied under a Soft Commission Agreement which are directly relevant to the provision of Investment Services to a Firm’s Customers and which are used for the purposes of one or more of the following:

(a) improving the Firm’s investment management decisions or advice by providing one or more of the items specified in paragraphs (i) to (iii) below:

(i) specific advice as to the advisability of dealing in, or of the value of, any Investment; or
(ii) research or analysis relevant to paragraph (a) above (or about investment generally and matters relevant thereto); or
(iii) use of computer or other information facilities to the extent that they are used to support investment decision-taking advice, research or analysis; or

(b) providing safe custody services in relation to Investments of or managed for Customers; or
(c) providing services by way of valuation of portfolios; or
(d) providing services by way of measurement of the performance of portfolios.

IMRO considers that the following goods and services and other expenses do not fall within the above definition:

- travel, accommodation or entertainment costs, whether or not related to the provision of Investment Services;
- any seminar fees not of direct relevance to the provision of Investment Services (e.g. non-core training services);
- any subscription for publications not of direct relevance to the provision of Investment Services;
- office administrative computer software, for example word processing, accounting programmes;
- the cost of correcting dealing errors;
- computer hardware not associated with investment decision-taking, advice, research and analysis;
- membership fees to professional associations;
- purchase or rental of office equipment or ancillary facilities;
- employees’ salaries.

(This should not be considered to be a conclusive list.)

<table>
<thead>
<tr>
<th><strong>Discretionary Agreement</strong></th>
<th>means a Customer Agreement under which a Firm may execute Customer Transactions at its own discretion.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Discretionary Customer</strong></td>
<td>means a Customer for whom a Firm exercises or may exercise discretion in relation to the investment of assets belonging to that Customer.</td>
</tr>
<tr>
<td><strong>Discretionary Managed Portfolio</strong></td>
<td>means a Managed Portfolio over which an Investment Manager exercises or may, under a Customer Agreement, exercise any degree of discretion as to the Investments which are at any time to constitute it, including Broker Funds.</td>
</tr>
<tr>
<td><strong>Discretionary Portfolio Manager</strong></td>
<td>means an Investment Manager who manages a Discretionary Managed Portfolio.</td>
</tr>
<tr>
<td><strong>discretionary transaction</strong></td>
<td>means a transaction which a Firm executes or proposes to execute in the exercise of discretion.</td>
</tr>
</tbody>
</table>
Dual Complaint
31.10.97; RN43
means a complaint which amounts to a Complaint and which is also a complaint relating to Investment Business which the Firm is permitted to carry on by virtue of its membership of another SRO or Recognised Professional Body or its authorisation by FSA.

EEA
1.1.96; RN18
means the European Economic Area.
Note: The members of the EEA are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden and the UK.

EIB
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means the European Investment Bank.

Eligible Custodian
2.2.98; RN37
in relation to a Firm, means:
(a) an Authorised Person whose Regulated Business includes the provision of services falling within paragraph 13A of Schedule 1 to the Act; or
(b) a European Investment Firm whose authorisation as such includes the provision of safekeeping and administration services; or
(c) a person who maintains its head office outside the UK and whom the Firm is satisfied is a person who:
(i) provides investment custodial services; and
(ii) in the provision of those services, is either regulated or supervised by a regulatory body or agency of government in the country in which that person carries on that business, or is subject to independent review (at least annually) by auditors with qualifications prescribed by law or by such a body or agency; or
(d) an Eligible Nominee.

Eligible Nominee
2.2.98; RN37
means:
(a) a person chosen by the Customer who is not known by the Firm to be an Associate of the Firm; or
(b) a corporate nominee whose business is limited to the holding, and activities related to the holding, of Investments, including an Own Nominee.
Note: A "corporate nominee" means a nominee which is a Company.

employee
30.11.91
in relation to a person, means an individual (not being that person’s Appointed Representative) who is employed in connection with that person's Investment Business whether under a contract of service or for services or otherwise; “employed” and "employment" shall be construed accordingly.

employer
30.11.91
means a person who employs an individual (not being that person’s Appointed Representative) in connection with its Investment Business whether under a contract of service or for services or otherwise.

Enforcement Committee
1.8.94; RS10
means any committee duly authorised by the Board and designated an Enforcement Committee.

Equity Share Capital
30.11.91
has the meaning given in Section 744 of the Companies Act 1985.
European Firm means a Firm which is a European Investment Firm.
16.2.96; RN24

European Institution Instrument means the Financial Services (European Institutions) Instrument 1993
1.8.94; RS11

European Investment Firm has the meaning given in the ISD Regulations.
16.2.96 RN24

Note: A European Investment Firm is not necessarily a Firm for the purposes of the Rules.

exception in relation to the rules of an SRO, means any provision made after 1 February 1991 which expressly disapplies or qualifies any particular Core Conduct of Business Rule in relation to a specific description of Firms, Customers, transactions or circumstances.
30.11.91

Excluded Instrument means any of the following:
1.1.96; RN18
(a) Futures not relating to Shares;
(b) Options (including covered warrants) not relating to Shares;
(c) swaps relating to Investments other than Shares or debt instruments;
(d) currencies and currency Derivatives;
(e) units in a collective investment undertaking (including units in a Collective Investment Scheme and shares in an Open-ended Investment Company); and
(f) Futures or Options relating to a basket of shares or an equity index which are not capable of settlement by delivery.

Execution-only Customer means a Customer who, in relation to a particular transaction, can reasonably be assumed by the employee of the Firm who deals with him regarding that transaction not to be relying on the Firm to advise him on, or to exercise any judgment on his behalf about, the merits of or the suitability for him of that transaction.
30.11.91

Execution-only Dealer means a person who carries on business only in relation to Derivatives.
30.11.91

Exempt Advertisement means an Investment Advertisement which can lawfully be issued in the UK by a person who is not an Authorised Person without approval of its contents by an Authorised Person.
30.11.91

Note: An Investment Advertisement can lawfully be issued in the UK by a person who is not an Authorised Person without its approval by an Authorised Person where it is issued under Section 58 of the Act. Section 58 provides that Section 57 (which imposes restrictions on the issue if Investment Advertisements) does not apply to a number of kinds of Investment Advertisements including, for example, those issued by governments, Local Authorities, Exempted Persons, nationals of other Member States and those advertisements which either appear to the Secretary of State to have a private character (such as an advertisement being issued by a body corporate to its existing members or creditors) or which are issued to persons appearing to the Secretary of State to be sufficiently expert to understand any risks involved (such as Authorised Persons and substantial bodies corporate of which the number of members and net assets exceed the limits specified by the Secretary of State).

Exempt Exposure means an Exposure:
ISD Firms 1.1.96; RN15
(a) to or guaranteed by a Zone A central government or central bank; or
Non-ISD Firms 1.7.96; RN15
(b) to or guaranteed by the European Communities; or
(c) to a Zone B central government or central bank denominated in the national currency of the third party;
or
(d) secured by Securities issued by a Zone A central
government or central bank, or by the European
Communities; or
(e) secured by cash deposited with the Firm or its
Connected Credit Institution; or
(f) secured by certificates of deposit issued by the Firm
or its Connected Credit Institution and deposited with
one of them; or
(g) to a Connected Company provided that the group is
supervised on a consolidated basis in accordance with the
Second Consolidated Supervision Directive and the
consolidation requirements of the Capital Adequacy
Directive; or
(h) with a maturity of one year or less to a Credit
Institution, Investment Firm, Recognised Third Country
Investment Firm, and Recognised Clearing Houses and
exchanges in financial instruments, not constituting
their Financial Resources; or
(i) connected with foreign exchange transactions,
incurred in the ordinary course of settlement during the
48 hours following payment; or
(j) in connection with transactions for the purchase or
sale of Securities incurred in the ordinary course of
settlement during the five working days following payment
or delivery of the Securities; or
(k) which is a bill of trade, with a maturity of less
than one year, accepted by a Credit Institution; or
(l) secured by marketable Securities provided that such
collateral exceeds the market value of the Exposure by
150 per cent in the case of transactions relating to
shares and by 50 per cent in relation to debt Securities
issued by a Credit Institution, a Member State regional
or local authority, the EIB, the IBRD, the IFC, the IADB,
the Asian and African Development Banks, the Council of
Europe Resettlement Fund, the Nordic Investment Bank and
the Caribbean Development Bank.

Exempt Single Property
Scheme 30.11.91
means a Single Property Scheme which is exempted from
Section 76(1) of the Act by regulations made under
Section 76(4) of the Act.

Exempted Person 30.11.91
means a person exempted under Chapter IV of Part I of the
Act.

Expenditure Based
Requirement
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
has the meaning given in paragraph (a) of Rule 2.3(5) of
Chapter V.

Exposure
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means any of the following:
(a) the current market value of any Investment held by
the Firm, or any underwriting commitment entered into by
the Firm where its own capital is at risk;
(b) the amount of any exposure to a counterparty;
(c) the value of all other assets and off-balance sheet
items (at market or book value, whichever is higher)
constituting claims on third parties, excluding any
illiquid asset which is deducted in full in the
calculation of Liquid Capital.

Extended Group 30.11.91
means the extended group consisting of the members of a
group of undertakings and the Marketing Group Associates
of any of them.

DEFINITIONS (F-P)
Finance Officer 30.11.91
means the most senior individual from time to time
directly responsible for the Firm’s finances and for
compliance with the requirements of Chapter V.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Business</td>
<td>means business which is, or is held out as being, primarily for the purposes of investment.</td>
</tr>
<tr>
<td>Financial Institution</td>
<td>means an undertaking other than a Credit Institution, the principal activity of which is to acquire holdings or to carry on one or more of the activities listed in points 2 to 12 in the Annex to the Second Banking Co-ordination Directive (89/646/EEC).</td>
</tr>
<tr>
<td>Financial Resources</td>
<td>has the meaning given in Rule 2.1(3) of Chapter V.</td>
</tr>
<tr>
<td>Financial Resources Requirement</td>
<td>has the meaning given in Rule 2.3(1) of Chapter V.</td>
</tr>
<tr>
<td>Financial Resources Rules</td>
<td>means Rules 2.1(1) to 2.7(5) of Chapter V.</td>
</tr>
<tr>
<td>Financial Return</td>
<td>means Annual Financial Return, Quarterly Financial Return or Monthly Financial Return as the case may be.</td>
</tr>
<tr>
<td>Financial Returns Rules</td>
<td>means Rules 3.2(1) to (9) of Chapter V.</td>
</tr>
<tr>
<td>Financial Services Tribunal</td>
<td>means the tribunal referred to in Section 96 of the Act.</td>
</tr>
<tr>
<td>FSA</td>
<td>means the Financial Services Authority.</td>
</tr>
<tr>
<td>Firm</td>
<td>means a person, duly admitted to membership of IMRO in accordance with IMRO's Admission Procedures and whose membership has not been terminated in accordance with the Rules, and reference to Firm shall include references to more than one such person admitted to membership on a collective basis. For the purposes of Rules 1.2(1) to (4) of Chapter IV and the Rules in Chapter VIII, &quot;Firm&quot; includes a Firm whose membership has been suspended or who, within one year after it has ceased its membership, has had served upon it a notice informing it that: (a) IMRO has exercised an Intervention against it; (b) IMRO has authorised an Investigation into its conduct or affairs; (c) IMRO has commenced disciplinary proceedings against it.</td>
</tr>
<tr>
<td>Foreign Exchange Position</td>
<td>has the meaning given in Table 2.3(5)(d) of Chapter V.</td>
</tr>
<tr>
<td>Foreign Exchange Requirement</td>
<td>has the meaning given in Table 2.3(5)(d) of Chapter V.</td>
</tr>
<tr>
<td>formal guidance</td>
<td>means guidance which is intended to have continuing effect and is issued: (a) generally or to a class of persons; and (b) in writing or other legible form.</td>
</tr>
<tr>
<td>friendly society</td>
<td>has the meaning given in Section 7(1)(a) of the Friendly Societies Act 1974.</td>
</tr>
<tr>
<td>FSA</td>
<td>means the Financial Services Authority.</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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<td>-----------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>FSA Core Rule</td>
<td>means one of the Core Conduct of Business Rules.</td>
</tr>
<tr>
<td>31.10.97; RN43</td>
<td></td>
</tr>
<tr>
<td>Full Customer Agreement</td>
<td>means a Customer Agreement required to be supplied to a Private Customer under Rule 2.2(2) of Chapter II and standards for which are set in Appendix 2.4(1)(a) of that Chapter.</td>
</tr>
<tr>
<td>30.11.91</td>
<td></td>
</tr>
<tr>
<td>Future</td>
<td>means an Investment falling within paragraph 8 of Schedule I to the Act.</td>
</tr>
<tr>
<td>30.11.91</td>
<td></td>
</tr>
<tr>
<td>Geared Futures and Options Fund</td>
<td>means a Regulated Collective Investment Scheme which can only invest in derivatives (where most or all of the extent of the investment is limited by the amount of property available to be put up as initial outlay), whether with or without transferable securities.</td>
</tr>
<tr>
<td>16.2.96; RN24</td>
<td></td>
</tr>
<tr>
<td>Geared Securities Fund</td>
<td>means a Regulated Collective Investment Scheme where the policies which the operator adopts or proposes to adopt mean that as a result of investments in warrants movements in prices of units are likely to be amplified significantly.</td>
</tr>
<tr>
<td>16.2.96; RN24</td>
<td></td>
</tr>
<tr>
<td>Government and Public Securities</td>
<td>means Investments falling within paragraph 3 of Schedule I to the Act.</td>
</tr>
<tr>
<td>30.11.91</td>
<td></td>
</tr>
<tr>
<td>Group</td>
<td>except in relation to a Marketing Group, has the meaning given by paragraph 30 of Schedule I to the Act.</td>
</tr>
<tr>
<td>30.11.91</td>
<td></td>
</tr>
<tr>
<td>Group of Connected Counterparties</td>
<td>means:</td>
</tr>
<tr>
<td>ISD Firms 1.1.96; RN15</td>
<td>(a) two or more natural or legal persons who, unless it is shown otherwise to the satisfaction of IMRO, constitute a single risk because one of them, directly or indirectly, has Control over the other or others; or</td>
</tr>
<tr>
<td>Non-ISD Firms 1.7.96; RN15</td>
<td>(b) two or more natural or legal persons between whom there is no relationship of Control as in (a) but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other or all of the others would be likely to encounter difficulties in performing its or their obligations.</td>
</tr>
<tr>
<td>Habitual Residence</td>
<td>(1) In relation to a Private Customer who is an individual, where that Private Customer states that he is resident at an address which reasonably appears to be a residential address, then it may be presumed that his Habitual Residence is at that address.</td>
</tr>
<tr>
<td>1.1.95; RN6</td>
<td>(2) In relation to a Private Customer who is not an individual or group of individuals, that Private Customer shall be treated as if its Habitual Residence were in the state where its place of establishment, or if it has more than one, the place of establishment to which the agreement relates, is situated.</td>
</tr>
<tr>
<td></td>
<td>(3) In relation to a variation of a Life Policy or purchase of a pension annuity connected to a Life Policy, then, unless the contrary be shown, it may be presumed that the Habitual Residence of the Private Customer, whether an individual or otherwise, is the same as at the date of entering into the transaction relating to that Life Policy, and paragraph (1) above is disapplied in such a case in relation to any residential address supplied by the Private Customer at any time after that date.</td>
</tr>
<tr>
<td>Higher Volatility Fund</td>
<td>means a Regulated Collective Investment Scheme which is a Geared Futures and Options Fund, a Warrant Fund or a Geared Securities Fund.</td>
</tr>
<tr>
<td>16.2.96; RN24</td>
<td></td>
</tr>
<tr>
<td>Holding Company</td>
<td>has the meaning given in Section 736 of the Companies Act 1985.</td>
</tr>
<tr>
<td>30.11.91</td>
<td></td>
</tr>
</tbody>
</table>
Home Regulated Investment Business 3.10.96; RN31
means, in relation to a European Investment Firm, Investment Business (other than the business of engaging in one or more of the activities which fall within paragraph 18 in Part III of Schedule 1 to the Act) which consists in the provision of one or more ISD Investment Services which its authorisation as an Investment Firm authorises it to provide.

Home State 1.2.96; RN23
means: (a) in relation to an Investment Firm which has no registered office, the EEA state in which the firm’s head office is situated; and
(b) in relation to an Investment Firm which has a registered office, the EEA state in which that office is situated.

Host State 1.1.96; RN18
means a Member State other than the UK.

IADB ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means the Inter-American Development Bank.

IBRD ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means the International Bank for Reconstruction and Development.

IFC ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means the International Finance Corporation.

IMRO 30.11.91
means Investment Management Regulatory Organisation Limited.

Note: See also paragraph 9 of Section 2 of this Schedule.

IMRO Training Standards Panel 1.7.94; RS8
means the panel of individuals appointed by the Board to assess and approve examinations.

Independent Approval 30.11.91
in relation to a decision or recommendation as to the investment of subscriptions to a BES Scheme, means approval of that decision or recommendation given:
(a) by a person who: (i) does not have a Material Interest in that decision or recommendation; (ii) is fully aware of all Material Interests of all persons concerned in the making of that decision or recommendation; and (iii) has appropriate professional experience of the subject matter of the decision or recommendation; and (b) in the course of a business carried on by that person which relates to the subject matter of the decision or recommendation in question.

Independent Intermediary 30.11.91
means a Firm which is not a Tied Firm and which provides Investment Services in respect of Packaged Products.

Indirect Customer 30.11.91
means, where a Customer is known to be acting as agent, an identified principal who would be a Customer if he were dealt with direct.

Inducement 30.11.91
does not include:
(a) disclosable commission; or (b) goods or services which can reasonably be expected to assist in the provision of Investment Services to Customers and which are provided or to be provided under a Soft Commission Agreement.

Induction Training 1.7.94; RS8
means, in relation to a newly appointed Company Representative or employee, Firm-related information and training to address a shortfall in the knowledge required to operate at the level of entry.
Informal Guide 1.5.95; RN11 means the informal guide to the Investment Ombudsman service, set out at Annex A to Chapter IV.

Initial Composition 30.11.91 means the composition of a Managed Portfolio on the date by reference to which the Initial Value of the portfolio is calculated.

Initial Value 30.11.91 means, in relation to a Managed Portfolio, the management of which has been assumed by a Firm on or after 1 October 1989 the value of all the assets comprised in the portfolio on the date such management was assumed.

Inspection 30.11.91 is an inspection of whatsoever kind carried out by IMRO pursuant to Rule 1.2(1) or (2) of Chapter IV.

Inspection Team 30.11.91 means any employees of IMRO and any agent or agents appointed by IMRO to assist with a particular Inspection.

Insurance company 30.11.91 has the meaning given in Section 96 of the Insurance Companies Act 1982.

Intervention 1.8.94; RS10 means a requirement or prohibition imposed:
(a) on a Firm under Powers of Intervention exercised in accordance with Rules 2.1(1) to 2.3(5) of Chapter VIII; or
(b) on a Registered Individual under Powers of Intervention exercised in accordance with Rules 2.2(1) to 2.3(5) of that Chapter.

Investigating Team 1.8.94; RS10 means the person or persons appointed under Rule 4.2(1) of Chapter VIII from time to time by IMRO to conduct an Investigation.

Investigation 1.8.94; RS10 means an investigation authorised pursuant to Rule 4.1(1) or 4.1(2) of Chapter VIII.

Investment 30.11.91 means any asset, right or interest falling within any paragraph in Part I of Schedule 1 to the Act including in relation to an Investment, where the context permits, an ancillary on that Investment.

Investment Advertisement 31.1.99; RN48 (a) means any Advertisement inviting anyone to enter or offer to enter into an Investment Agreement or to exercise any rights conferred by an Investment to acquire, dispose of, underwrite or convert an Investment or containing information calculated to lead directly or indirectly to anyone doing so (s.57(2) of the Act); or
(b) any Advertisement in relation to an ISA.

Investment Agreement (s.44(9) of the Act) 30.11.91 means any agreement the making or performance of which by either party constitutes an activity which falls within any paragraph of Part II of Schedule 1 to the Act or would do so apart from Parts III and IV of that Schedule.

Investment Business 3.10.96; RN31 means the business of engaging in one or more of the activities which fall within the paragraphs in Part II of Schedule 1 to the Act and are not excluded by Part III of that Schedule except that nothing in paragraphs 17 to 29 or 21 of Part III of Schedule 1 to the Act shall have the effect that the provision of any Core Investment Service to third parties on a professional basis is excluded from the activities which fall within the paragraphs in Part II of Schedule 1 to the Act.

Note: This definition reflects the definition of Investment Business in Section 1(2) of the Act as extended by Article 6 of the Financial Services Act 1986 (Investment Services) (Extension of Scope of Act) Order 1995 (SI 1995/3271).

Note: The activities excluded by Part III of Schedule 1 include, in particular, certain dealings as principal and certain activities involving corporate groups, joint enterprises, trustees or personal
representatives.

**Investment Firm**
16.2.96; RN24

has the meaning given in the ISD Regulations.  
*Note:* An Investment Firm is not necessarily a Firm for the purposes of the Rules.

**Investment Manager**
30.11.91

means a person who, acting only on behalf of a Customer, either:  
(a) manages an account or portfolio in the exercise of discretion; or  
(b) has accepted responsibility on a continuing basis for advising on the composition of the account or portfolio.

**Investment Ombudsman**
1.5.95; RN11

means the person appointed by IMRO for the purpose of the Ombudsman Memorandum to consider Complaints through investigation and, where appropriate, adjudication.

**Investment Services**
31.1.99; RN48

means activities undertaken in the course of carrying on Investment Business or undertaken as an ISA manager.

**Investment Trust**
30.11.91

means a closed-ended company which is listed in the UK or another Member State and:  
(a) is approved by the Inland Revenue under Section 842 of the Income and Corporation Taxes Act 1988 (or, in the case of a newly formed company, has declared its intention to conduct its affairs so as to obtain approval); or  
(b) is resident in another Member State and would qualify for approval if resident and listed in the UK.

**Investment Trust Company**
30.11.91

means a Company which is an Investment Trust.

**Investment Trust Savings Scheme**
30.11.91

means a dealing service dedicated to the securities of a particular Investment Trust or of Investment Trusts within a particular Marketing Group, and references to an Investment Trust Savings Scheme include references to securities to be acquired through that scheme.

**Investors Compensation Scheme**
30.11.91

means the compensation scheme made under Section 54 of the Act.

**ISA**
31.1.99; RN48


**ISA Cash Deposit**
31.1.99; RN48

means a cash deposit within Regulation 8 of the Individual Savings Account Regulations 1998 (SI 1998/1870) which is held within a cash component ISA.

**ISD**
1.1.96; RN18


**ISD Firm**
16.2.96; RN24

means a Firm which is a UK Authorised Investment Firm.

**ISD Investment Services**
3.10.96; RN31

means Core Investment Services and Non-Core Investment Services.

**ISD Regulations**
1.2.96; RN23

means the Investment Services Regulations 1995.

**issue**
30.11.91

includes cause to be issued.

**Key Features**
4.11.96; RN32

means the information required by Rule 6.2(3) of Chapter II.

**Large Exposure**
30.11.91

means any Exposure to a Counterparty, or Group of Connected Counterparties which exceeds 10 per cent of a Firm’s Own Funds.
LAUTRO means Life Assurance and Unit Trust Regulatory Organisation Limited.

Life Office means an insurance company which carries on long term business within the meaning of Section 1 of the Insurance Companies Act 1982, or a friendly society.

Life Policy means an Investment falling within paragraph 10 of Schedule 1 to the Act.

Liquid Capital has the meaning given in Rule 2.2(2) and Table 2.2(1) of Chapter V.

Liquid Capital Requirement has the meaning given in Rule 2.3(4) of Chapter V.

Listed Money Market Institution has the meaning given in Section 43 of the Act.

Long Position in relation to a person and an Investment of a particular description (including Futures and Options) at a particular time, means the amount by which the number of units of that Investment which that person holds at that time or which under commitments at that time he is, or will afterwards be, obliged to acquire exceeds the number of units of that Investment which under commitments at that time he is, will or may afterwards become entitled or obliged to deliver.

Managed Portfolio means an account or portfolio belonging to a Customer: (a) which an Investment Manager manages, or has agreed to manage, in the exercise of discretion; or (b) for which an Investment Manager has accepted responsibility on a continuing basis for advising on its composition.

Manager in relation to a person, means an employee who, under the immediate authority of the governing body of such person, is responsible either alone or jointly with one or more other persons for the conduct of such person's business and in relation to an Authorised Unit Trust Scheme, means the manager of the scheme.

Marketable Investment means: (a) an Investment which is traded on or under the rules of a Recognised or Designated Investment Exchange or an EEA Regulated Market; or (b) an Investment falling within paragraph 3 of Schedule 1 to the Act which is denominated in the currency of the country of the government, local authority or public authority concerned; or (c) any loan stock, bond or other instrument creating or acknowledging indebtedness the repayment of which is guaranteed by a government, local authority or public authority which is issued in the country of the guarantor and in the currency of that country; or (d) any loan stock, bond or other instrument creating or acknowledging indebtedness which is issued by, or the repayment of which is guaranteed by, any government agency or public corporation established in a country or territory outside the UK which has laws requiring the filing or approval of prospectuses and which are exempt from those laws; or (e) an Investment specified in any of paragraphs (a), (b), (c), (d) and (e) of paragraph 2(2) of Schedule 5 to the Act.

Market Counterparty means a person dealing with the Firm: (a) as principal or as agent for an unidentified principal; and (b) in the course of Investment Business of the same description as that in the course of which the Firm acts.
**Marketing Group**
30.11.91

means a group of persons:
(a) who are allied together (either formally or informally) for the purposes of marketing Packaged Products of the group; and
(b) each of whom, if it holds itself out in the UK as marketing any Packaged Products to Private Customers, does so only as an Investment Manager or in relation to those of the Marketing Group.

**Marketing Group Associate**
30.11.91

in relation to a person in a Marketing Group, means any other person which is a member of that Marketing Group.

**Market Maker**
30.11.91

in relation to an Investment of any description, means a person who (otherwise than in his capacity as the operator of a Regulated Collective Investment Scheme) holds himself out as able and willing to enter into transactions of sale and purchase in Investments of that description at prices determined by him generally and continuously rather than in respect of each particular transaction.

**Mark-up or Mark-down**
30.11.91

difference which may have arisen solely because of changes in foreign exchange rates) between the total amount (after deduction of taxes) payable by or to a Customer in connection with a transaction and the price determined by the Firm to secure Best Execution of that transaction in accordance with Rule 3.8(1) of Chapter II.

**Material Interest**
30.11.91

in relation to a transaction, does not include:
(a) disclosable commission on the transaction; or
(b) goods or services which can reasonably be expected to assist in the provision of Investment Services to Customers and which are provided or to be provided under a Soft Commission Agreement.

**Member**
16.2.96; RN24

Note: Redefined as "Firm". See entry above.

**Member State**
1.1.96; RN18

means a member state of the EEA.

**Memorandum**
30.11.91

is the Memorandum of Association of IMRO, as amended from time to time.

**Mid-Year Point**
30.11.91

means six months after the Accounting Reference Date.

Note: This definition may be varied on notice to IMRO where the Firm does not prepare accounts on a calendar month basis, in which case the closest approximation to six months after the Accounting Reference Date must be used. However the Mid-Year Point shall coincide with the date to which the second Quarterly Financial Returns after the Annual Financial Returns are prepared.

**Mixed Portfolio**
30.11.91

means a Managed Portfolio which, in accordance with the investment objectives of the Customer, may include both Investments falling within any of paragraphs 1 to 6 of Schedule 1 to the Act and Investments falling within any of paragraphs 7 to 9 of that Schedule, where the principal objectives of the Customer relate to the former.

**mixed remittance**
1.4.95; RN7

has the meaning attributed to it in paragraph (c) of Rule 11.5(4).

**Monthly Financial Return**

ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15

means the return in Table 3.2(6) (c) of Chapter V.

**Non-Core Investment Service**
3.10.96; RN31

means a service listed in Section C of the Annex to the ISD.
Non-private Customer means a Customer who is not a Private Customer or anyone who is treated as a Non-private Customer in accordance with Rule 2.1(2) of Chapter II.

Non-private Customer’s Scheme means a Scheme in which each participant is a Non-private Customer.

Non-Trading Book means any transaction relating to an Investment entered into by the Firm on its own account which is not business or an Exposure within its Trading Book.

Notice of Appeal means a notice of appeal to the Appeal Tribunal pursuant to Rule 7.2(1) of Chapter VIII.

Notifiable Event means an event or circumstance specified in Table 2.2(1) of Chapter IV.

Occupational Pension Scheme means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employment so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, or in respect of earners with qualifying service in an employment of any such description or category.

Officer in relation to a Body Corporate, means any director or secretary, in relation to an unincorporated association, means any member of the governing body of the association and in relation to a partnership, means any partner.

Oil Market Participant has the same meaning as in the Financial Services (Conduct of Business) Rules 1990.

Ombudsman Memorandum means the memorandum setting out the object, powers and functions of the Investment Ombudsman.

on exchange in relation to a transaction, means that the transaction is effected:
(a) on the exchange; or
(b) under the rules of the exchange; or
(c) as a transaction which is both matched and identified as matched with an on exchange transaction.


Open-Ended Investment Company (s.75(8) (Part) of the Act) means a Collective Investment Scheme under which:
(a) the property in question belongs beneficially to, and is managed by or on behalf of, a Body Corporate having as its purpose the investment of its funds with the aim of spreading investment risk and giving its members the benefit of the results of the management of those funds by or on behalf of that Body Corporate; and
(b) the rights of the participants are represented by shares in or securities of that body which:
(i) the participants are entitled to have redeemed or repurchased, or which (otherwise than under Chapter VII of Part V of the Companies Act 1985 or the corresponding Northern Ireland provision) are redeemed or repurchased from them by, or out of funds provided by, that Body Corporate; or
(ii) the Body Corporate ensures can be sold by the participants on an investment exchange at a price related to the value of the property to which they relate.

Open Position in relation to a person and an Investment of a particular description at a particular time, means that person’s Long Position or, as the case may be, Short Position in relation to that Investment at that time.
(a) in relation to a Unit Trust Scheme with a separate trustee, means the manager;
(b) in relation to a UK Open-ended Investment Company, means the Authorised Corporate Director;
(c) in relation to an Open-ended Investment Company means both that company and any person appointed to manage the assets of the company on its behalf;
(d) in relation to other types of Collective Investment Scheme, means the person appointed to manage the Scheme and/or the assets of the Scheme; and
(e) in relation to an Investment Trust Savings Scheme, means the person appointed by those responsible for managing the assets of the Investment Trust.

OPS means Occupational Pension Scheme.

OPS activity means the activity of management falling within paragraph 14 of Schedule 1 to the Act in a case where the assets referred to in that paragraph are held for the purposes of an OPS, or are assets of an OPS Collective Investment Scheme, or any one or more of the activities falling within paragraph 12, 13 and 15 of the Schedule which are undertaken in the course of, or incidental to the operation of the Scheme.

OPS Collective Investment Scheme means a Collective Investment Scheme the contributions to which consist entirely of assets held for the purposes of an OPS.

OPS Firm means a Firm whose Permitted Business consists only of Investment Business which is an OPS activity and which is not undertaken with a view to profit and:
(a) which is one or more of the following:
(i) a trustee of the OPS in question; or
(ii) a Company owned by the trustees of the OPS in question; or
(iii) a company which
(A) is an employer in relation to the OPS in question in respect of its employees or former employees or their dependants; or
(B) is a company within the Group which includes an employer within sub-paragraph (A) above; or
(iv) an administering authority subject to the Local Government Superannuation Regulations 1986; or
(b) which is in such a relationship to the OPS in question that IMRO is satisfied that Section 10 of Chapter II of the Rules should apply, and has confirmed this in writing to the Firm.

Option means an Investment falling within paragraph 7 of Schedule 1 to the Act.

Order in relation to an order from a Customer, means:
(a) an order to a Firm from the Customer to effect a transaction as agent; or
(b) any other order to a Firm from the Customer to effect a transaction in circumstances giving rise to similar duties as those arising on an order to effect a transaction as agent; or
(c) a decision by a Firm in the exercise of discretion for the Customer.

Ordinary Business Investor means:
(a) a government, local authority or public authority within the meaning of Schedule 1 to the Act;
(b) a Company or partnership which satisfies (or which has satisfied at any time during the previous two years) any of the following size requirements:
(i) that it is a body corporate which has more than 20 members (or is the subsidiary of a company which has more than 20 members) and it (or any of its holding companies or subsidiaries) has a called up share capital or net assets of £500,000 or more; or
(ii) that it is a body corporate and it (or any of its holding companies or subsidiaries) has a called up
share capital or net assets of £5 million or more; or
(iii) if it is not a body corporate, it has net assets
of £5 million or more (calculated in the case of a
limited partnership, without deducting loans owing to
any of the partners); or
(c) a trustee of a trust which satisfies either of the
following size requirements:
(i) that the aggregate value of the cash and
investments which form part of the trust’s assets
(before deducting the amount of its liabilities) is
£10 million or more; or
(ii) that the aggregate value has been £10 million or
more at any time during the previous two years; or
(d) any Authorised Person, Listed Money Market
Institution or Overseas Person which does not already
qualify under (a), (b) or (c) above.

OTC Derivative
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means interest rate and foreign exchange contracts
covered by Annex II to the Solvency Ratio Directive and
off balance sheet contracts based on equities which are
not traded on a Recognised or Designated Investment
Exchange or other exchange where they are subject to
daily margin requirements, excluding any foreign
exchange contract with an original maturity of 14
calendar days or less.

Other Assets Requirement
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
has the meaning given in Table 2.3(5)(e) of Chapter V.

Overseas Clearing House
30.11.91
means a recognised clearing house in the case of which
a recognition order has been made by virtue of Section
40 of the Act.

Overseas Investment
Exchange
30.11.91
means a recognised investment exchange in the case of
which a recognition order has been made by virtue of
Section 40 of the Act.

Overseas Person
30.11.91
means a person who carries on Investment Business but
who does not do so from a permanent place of business
maintained by him in the UK.

Own Account Transaction
30.11.91
means a transaction:
(a) effected or arranged by the Firm in the course of
carrying on either Investment Business or Associated
Business; and
(b) on its own account or on the account of an
Associate acting on its own account.

Own Custodian
2.2.98; RN37
Deleted.

Own Funds
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
has the meaning given in Rule 2.2(1) and Table 2.2(1)
of Chapter V.

Own Funds Requirement
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
has the meaning given in Rule 2.3(3) of Chapter V.

Own Funds Return
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means the return which governs the calculation by an
ISD Firm of an alternative Own Funds Requirement.
Note: Copies of this return are available on request
from IMRO.

Own Funds Transitional
Provisions
ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15
means the Own Funds Return.

Own Nominee
2.2.98; RN37
in relation to a Firm, means a corporate nominee whose
business is limited to the holding, and activities
in relation to the holding, of Investments which is either
controlled by, or whose directors are accustomed to act
in accordance with the directions or instructions of
the Firm in relation to the holding of Investments.
**Packaged Product**
20.11.00; RN53

means a Life Policy, a unit in a Regulated Collective Investment Scheme, Investment Trust shares acquired through an Investment Trust Savings Scheme, a PEP or an ISA the Plan Investments of which include, or may include, such units or such Investment Trust shares, and for the purposes of Rules 6.2 and 6.5 of Chapter II, also includes an ISA Cash Deposit.

**Panel**
1.8.94; RS10

means the panel of individuals appointed by the Board from which members of the Disciplinary Tribunal and Appeal Tribunal are drawn.

**Partially Exempt Exposures**

ISD Firms 1.1.96; RN15
Non-ISD Firms 1.7.96; RN15

means an Exposure which may be reduced:

(a) by 50 per cent in the case of flow or medium risk off balance sheet items including documentary credits in which an underlying shipment acts as collateral, undrawn credit facilities with an original maturity of up to and including one year which may be cancelled unconditionally at any time without notice including agreements to lend, purchase Securities, provide guarantees or acceptance facilities;

(b) by 80 per cent in the case of Exposures to or guaranteed by EC regional or local authorities;

(c) for an exposure in a financial instrument to a Credit Institution, Investment Firm, Recognised Third Country Investment Firm, and a Recognised Clearing House or Exchange, either

(i) by 80 per cent if it has a maturity of more than one but not more than three years; or

(ii) by 50 per cent (for marketable debt instruments only – 100 per cent otherwise) if it has a maturity of more than three years.

**Pension Contract**
30.11.91

means a right to benefits obtained by the making of contributions to an Occupational Pension Scheme or to a personal pension scheme where the contributions are paid to a Regulated Collective Investment Scheme.

**Pension Fund Management Policy**
30.11.91

means a Life Policy the effecting or carrying out of which constitutes life insurance business by reason only that it is business falling within Class VII of Schedule 1 to the Insurance Companies Act 1982.

**Pension Policy**
30.11.91

means a right to benefits obtained by the making of contributions to an Occupational Pension Scheme or to a personal pension scheme where the contributions are paid to a Life Office.

**Pension Transfer**
1.7.94; RS9

means any transaction whereby a Customer agrees to opt out of or not join an Occupational Pension Scheme in order to acquire, or enter into a contract relating to, a Packaged Product or whereby a Customer agrees to make or have made on his behalf a payment representing a transfer of accrued pension benefits from an Occupational Pension Scheme to a Product Company in connection with the purchase or issue of a Packaged Product.

**PEP**
30.11.91

means a Personal Equity Plan.

**Periodic Statement**
30.11.91

means a report required to be sent to a Customer in accordance with Rules 4.5(1) to (6) of Chapter II or, in the case of a Firm which is an Operator of a Collective Investment Scheme and which is undertaking Scheme Management Activity, Rules 7.5(1) to (4) of Chapter II.

**Note:** A Periodic Statement may be a computer print-out; it may include copies of extracts from other documents and it need not take the form of one statement especially prepared for the purpose.

**Note:** The contents required to be included are set out in Table 4.5(5).
Periodic Value
30.11.91
in relation to a Periodic Statement of a Managed Portfolio, means the value of all the assets comprised in the portfolio on the first day of each period of account for which Periodic Statement of the portfolio are to be provided in accordance with Rule 4.5 of Chapter II of the Rules, being either:
(a) the value of the portfolio on the date as at which the statement provided under that Rule for the immediately preceding period of account is made up; or
(b) in the case of the first periodic statement, the value of all the assets comprised in the portfolio on the date on which the Firm assumed responsibility for the management of the portfolio.

Permitted Business
3,10,96; RN31
1. means:
(a) (i) Investment Business, other than business within paragraph 2 below; and
(ii) Non-Core Investment Services and the other kinds of activities set out in Table 2.2(1) of Chapter VII;
or
(b) in relation to a European Firm, Home Regulated Investment Business; as specified in a written statement which IMRO has for the time being accepted in writing that a Firm is permitted to carry on in the UK or, in the case of an ISD Firm, either in the UK or in, or into, a Host State.
2. The business within this paragraph is the business of engaging in one or more of the activities which fall within paragraph 18 in Part III of Schedule 1 to the Act.

Permitted Person
30.11.91
means a person to whom the Secretary of State has granted permission under paragraph 23 of Schedule 1 to the Act.

Permitted Third Party
30.11.91
means a person whom a Trustee Firm reasonably believes to be:
(a) an Authorised Person; or
(b) an Exempted Person who is acting in the course of a business in respect of which he is exempt; or
(c) an Overseas Person.

person
30.11.91
means an individual, a Body Corporate, a partnership or an unincorporated association.

Personal Equity Plan
30.11.91
means a scheme of investment which is a plan within the meaning of the Personal Equity Plan Regulations 1989 (SI 1989/469).

Personal Pension Contract
30.11.91
means a Personal Pension Scheme under which the contributions are paid to the Operator of a Regulated Collective Investment Scheme.

Personal Pension Policy
30.11.91
means a Pension Policy under which the contributions are made to a Personal Pension Scheme.

Personal Pension Scheme
30.11.91
has the meaning given to it by Section 6 of the Income and Corporation Taxes Act 1988.

PIA Ombudsman Bureau
1.5.95; RN11
means the body responsible for investigating complaints against members of the Personal Investment Authority.

Plan Investment
31.1.99; RN48
means an Investment included in a PEP or in any ISA component.

Policyholder
1.1.95; RN6
means a person falling within Rule 1.03.3 of the Financial Services (Cancellation) Rules 1994.

portfolio
30.11.91
means the whole or part of a Customer's portfolio or account.

Position Risk Requirement
ISD Firms 1.1.96; RN15Non-ISD Firms 1.7.96; RN15
has the meaning given in Table 2.3(5)(b) of Chapter V.
Powers of Intervention
1.8.94; RS10
means IMRO's powers of intervention prescribed in Rule 2.1(2) and 2.2(2) of Chapter VIII.

Prescribed Disclosure
30.11.91
means a written statement which must make clear:
(a) that all or most of the protections provided by the UK regulatory system do not apply; and
(b) where the business is excluded from the Investors Compensation Scheme by its territorial scope (or would be so excluded if the person carrying it on were a participant firm), a statement that compensation under that scheme will not be available; and which may also indicate the protections or compensation available under another system of regulation.

Principles
31.10.97; RN43
means the Statements of Principle made by FSA on 15 March 1990 under Section 47A of the Act, which express the standards of conduct expected of all Authorised Persons.

Private Customer
31.3.92; RR1
means:
(a) a Customer who is an individual and who is not acting in the course of carrying on Investment Business; or
(b) unless he is reasonably believed to be an Ordinary Business Investor, a customer who is a Small Business Investor; or
(c) anyone who is treated as a Private Customer in accordance with Rule 2.1(3) of Chapter II.

Private Offer
30.11.91
in relation to shares in a company, means an offer or invitation in relation to those shares which, by virtue of Section 60 of the Companies Act 1985, is not required to be treated as made to the public.

Product Company
30.11.91
means, in relation to:
(a) a Life Policy, the Life Office by which that policy is issued;
(b) units in a Regulated Collective Investment Scheme, the Operator of that scheme; and
(c) an Investment Trust Savings Scheme, the Operator of that scheme.

Property Unit Trust
1.7.95; RN13
means a Unit Trust Scheme which invests directly in property.

Prospectus
30.11.91
unless the context otherwise requires, means:
(a) where a Firm has no interest (whether direct or indirect) in the company the subject of the prospectus, a prospectus in relation to which that Firm has reason to believe that the requirements of the Act and of the Companies Act 1985 which apply to prospectuses have been complied with; and
(b) in any other case, a prospectus which complies (and is not merely believed by a Firm to comply) with the requirements of the Act and of the Companies Act 1985 which apply to prospectuses.

Provided Information
1.5.94; RS8
means:
(a) in relation to a Firm, all information, documents, returns, notifications, Statements of Representation and other material of any kind whatsoever provided to IMRO from time to time by the Firm or on its behalf or by its Appointed Representative or by any of the Appointed Representative's or the Firm's employees whether before or after admission to membership; and
(b) in relation to a Registered Individual, all information, documents, notifications and other material of any kind relating to that Registered Individual provided to IMRO from time to time by or on behalf of that individual, whether before or after admission as Registered Individual.

PTP
30.11.91
means a Permitted Third Party.
Published Recommendation means any journal, tipsheet, broker's circular or other publication (including publication by sound broadcasting or television) which contains the results of research into or analysis of factors likely to influence the future performance of Investments, or advice or recommendations based on such results, and which is issued by or on behalf of a Firm to the public or selected sections of the public, including members of the public who are Customers of the Firm responsible. A communication of which the main body or import is common to a number of such communications may be a Published Recommendation notwithstanding that the introduction or presentation of each such communication is so worded or arranged as to appear to make it a personal communication.

DEFINITIONS (Q-Z)

Qualifying Amount has the meaning given in Rule 2.6(1) of Chapter V.

Qualifying Capital Instrument ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15 means that part of a Firm's capital which is a security of indeterminate duration, or other instrument, that fulfills the following conditions:

(a) it may not be reimbursed on the bearer's initiative or without the prior agreement of IMRO;
(b) the debt agreement must provide for the Firm to have the option of deferring the payment of interest on the debt;
(c) the lender's claims on the Firm must be wholly subordinated to those of all non-subordinated creditors;
(d) the documents governing the issue of the securities must provide for debt and unpaid interest to be such as to absorb losses, whilst leaving the Firm in a position to continue trading;
and
(e) only fully paid-up amounts shall be taken into account.

Qualifying Capital Item ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15 means that part of a Firm's capital which has the following characteristics:

(a) it is freely available to the Firm to cover normal banking or other risks where revenue or capital losses have not yet been identified;
(b) its existence is disclosed in internal accounting records;
and
(c) its amount is determined by the management of the Firm and verified by independent auditors, and is made known to, and is monitored by, IMRO.

Note:
Verification by internal auditors will suffice until such time as EU provisions making external auditing mandatory have been implemented.

Qualifying Debt Security ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15 means:
(a) an instrument included in Article 6(1)(b) of the Solvency Ratio Directive;
(b) a debt instrument issued by an Investment Firm or by a Recognised Third Country Investment Firm which;
(i) is listed either on a Regulated Market or on a Recognised Investment Exchange; and
(ii) the Firm reasonably believes to be sufficiently liquid and, because of the solvency of the issuer, to be subject to a degree of default risk which is comparable to or lower than that of an instrument falling within paragraph (a) above; and
(c) any other debt instrument which meets the condition in sub-paragraph (b)(ii); unless IMRO directs that the instrument may not be regarded as a Qualifying Debt Security.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualifying Property ISD Firms</td>
<td>has the meaning given in Rule 2.6(1) of Chapter V.</td>
</tr>
<tr>
<td>Qualifying Property Non-ISD Firms</td>
<td>has the meaning given in Rule 2.6(1) of Chapter V.</td>
</tr>
<tr>
<td>Qualifying Subordinated Loan ISD Firms</td>
<td>has the meaning given in Rules 2.5(1) to (6) of Chapter V.</td>
</tr>
<tr>
<td>Qualifying Subordinated Loan Non-ISD Firms</td>
<td>has the meaning given in Rules 2.5(1) to (6) of Chapter V.</td>
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<tr>
<td>Qualifying Undertaking ISD Firms</td>
<td>has the meaning given in Rule 2.6(2) of Chapter V.</td>
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<tr>
<td>Qualifying Undertaking Non-ISD Firms</td>
<td>has the meaning given in Rule 2.6(2) of Chapter V.</td>
</tr>
<tr>
<td>Quarterly Financial Return ISD Firms</td>
<td>means the return in Table 3.2(6)(b) of Chapter V.</td>
</tr>
<tr>
<td>Quarterly Financial Return Non-ISD Firms</td>
<td>means the return in Table 3.2(6)(b) of Chapter V.</td>
</tr>
<tr>
<td>Readily Realisable Investment 30.11.91</td>
<td>means a unit in a Regulated Collective Investment Scheme, a Life Policy or any Marketable Investment other than one which is traded on or under the rules of a Recognised or Designated Investment Exchange so irregularly or infrequently: (a) that it cannot be certain that a price for that Investment will be quoted at all times; or (b) that it may be difficult to effect transactions at any price which may be quoted.</td>
</tr>
<tr>
<td>Recognised Clearing House 30.11.91</td>
<td>means any clearing house which is recognised for the purposes of the Act.</td>
</tr>
<tr>
<td>Recognised Examination 1.7.94; RS8</td>
<td>means an examination which has been approved by an SRO other than IMRO and recognised by the IMRO Training Standards Panel as meeting the required standards.</td>
</tr>
<tr>
<td>Recognised Investment Exchange 6.2.98; RN45</td>
<td>means any investment exchange which is recognised for the purposes of the Act and any EEA Regulated Market.</td>
</tr>
<tr>
<td>Recognised Market Maker 30.11.91</td>
<td>means a person (whether an individual, partnership or Company) who: (a) holds himself out at all normal times in compliance with the rules of a Recognised Investment Exchange as willing to buy and sell Securities at prices specified by him; and (b) is recognised as doing so by that Recognised Investment Exchange.</td>
</tr>
<tr>
<td>Recognised Professional Body 30.11.91</td>
<td>means a body declared by an order of the Secretary of State for the time being in force to be a recognised professional body for the purposes of the Act.</td>
</tr>
<tr>
<td>Recognised Scheme 30.11.91</td>
<td>means a scheme recognised under Section 86, 87 or 88 of the Act.</td>
</tr>
</tbody>
</table>
Recognised Third Country Investment Firm means an Investment Firm which is authorised in a country other than a Member State and which is subject to and complies with prudential rules equivalent to the requirements of the Capital Adequacy Directive.

**Note:**
A Recognised Third Country Investment Firm is not necessarily a Firm for the purposes of the Rules.

**Note:**
The non-EEA regulators which are approved by IMRO for the purposes of recognising Recognised Third Country Investment Firms under the Capital Adequacy Directive are those which are listed in the SFA rules.

Reconciliation means the identification and explanation of individual items of difference between two sets of records, but does not include the processing of necessary adjustments.

Registered Individual means an individual who is registered by IMRO as permitted to carry on one or more Registrable Activities. For the purposes of Rules 1.2(2) to (4) of Chapter IV and the Rules in Chapter VIII, "Registered Individual" includes an individual whose registration has been treated as inactive or suspended or who, within one year after he has ceased to be a Registered Individual, has had served upon him a notice informing him that:
(a) IMRO has exercised an Intervention against him;
(b) IMRO has authorised an Investigation into his conduct or affairs;
(c) IMRO has commenced disciplinary proceedings against him.

Registrable Activity in relation to a Firm, means any one of the following:
(a) holding the post of Director or Chief Executive;
(b) acting as an Investment Manager in the course of the Permitted Business of the Firm;
(c) acting in a senior capacity with responsibility either alone or jointly with one or more other individuals for the management, supervision and control of a part of the Firm’s Permitted Business (including the Compliance Officer and the Finance Officer);
(d) procuring or endeavouring to procure other persons to enter into Investment Agreements, or giving advice to persons with whom he deals about entering into Investment Agreements or exercising rights conferred by Investments, in the course of the Permitted Business of the Firm;
(e) committing the Firm or its Customers in market dealings or in transactions in Securities or in other Investments in the course of the Firm’s Permitted Business.

Registrar means:
(a) in relation to any such society as is mentioned in Section 23(1) of the Act, or to any self-regulating organisation for friendly societies which has applied for, or been granted, a recognition order made by him, the Chief Registrar of friendly societies;
and
(b) in relation to any such society as is mentioned in Section 23(2) of the Act, or to any self-regulating organisation for friendly societies which has applied for, or been granted, a recognition order made by him, the Registrar of Friendly Societies for Northern Ireland.

Regulated Business 1. means Investment Business, other than business within paragraph 2 below, which is:
a. business carried on from a permanent place of business maintained by a Firm (or its Appointed Representative) in the UK; and
b. other business (including, in relation to a European Firm, Home Regulated Investment Business) carried on
with or for Customers in the UK, unless that business is:

i. business carried on from an office of a Firm outside the UK which would not be treated as carried on in the UK if that office were a separate person; or

ii. business of an Appointed Representative of the Firm which is not carried on in the UK.

2. The business within this paragraph is the business of engaging in one or more of the activities which fall within paragraph 18 in Part III of Schedule 1 to the Act.

Note:
The effect of Part IV of Schedule 1 to the Act as applied to a Firm, which is carrying on Investment Business from a permanent place of business outside the UK, is to enable it in certain circumstances to undertake in the UK the activities set out in paragraphs 12 to 15 of Schedule 1. Business carried on by a Firm in the UK from an office outside the UK does not constitute Investment Business carried on in the UK if it falls within the provisions available to Overseas Persons in Part IV of Schedule 1 to the Act.

The activities are broadly:
dealing and arranging deals in Investments
offering or agreeing to manage Investments for others
giving investment advice.

The circumstances are broadly where the Firm:

a. deals or arranges a deal with or through an Authorised Person or an Exempted Person; or

b. deals, as principal with or agent for, or arranges a deal or offers or agrees to manage Investments for, or gives investment advice to, somebody in the UK either wholly without solicitation or as a result of the Firm approaching, or being approached by, the person concerned, without the Firm contravening the cold-calling or advertising requirements of Sections 56 and 57 of the Act.

However, a Firm may undertake a transaction as agent for somebody in the UK only if the other party to the transaction is:

i. outside the UK; or

ii. in the UK, if the Firm’s participation in the transaction was either wholly unsolicited or resulted from the Firm approaching, or being approached by, that other party, without the Firm contravening the cold-calling or advertising requirements referred to above.

Regulated Collective Investment Scheme 16.2.96; RN24
Regulated Friendly Society 30.11.91

means an Authorised Unit Trust Scheme, a Recognised Scheme recognised under Section 86, 87 or 88 of the Act, and a UK Open-ended Investment Company.

as respects Investment Business carried on for or in connection with any of the purposes mentioned in Schedule 1 to the Friendly Societies Act 1974, or, as the case may be, to the Friendly Societies Act (Northern Ireland) 1970, means a society which is a friendly society within the meaning of Section 7(1)(a) of the Friendly Societies Act 1974 and is registered within the meaning of that Act or is a friendly society within the meaning of Section 1(1)(a) of the Friendly Societies Act (Northern Ireland)
1970 and is registered or deemed to be registered under that Act; and
(a) under its rules, has its registered office at a place situated in Great Britain or, as the case may be, Northern Ireland; and
(b) carries on Investment Business in the UK.

Regulated Friendly Society means Investment Business in respect of which the Regulated Friendly Society is authorised by virtue of Section 23 of the Act.

Regulated Market means:
(a) any market referred to in Regulation 49(1) of the ISD Regulation;
and


Regulator in relation to a firm, means:
(a) where the firm is a member of an SRO, that SRO;
(b) where the firm is certified by a Recognised Professional Body, that body; and
(c) otherwise, FSA.

Regulatory System means the arrangements for regulating a firm under the Act including the Principles, the Core Conduct of Business Rules and the rules of its regulator.

Related Company in relation to a Firm being a Body Corporate, means any Body Corporate which is or at any material time was:
(a) a Holding Company or Subsidiary of the Firm; or
(b) a Subsidiary of a Holding Company of the Firm; or
(c) a Holding Company of a Subsidiary of the Firm.

Relevant Foreign Exchange Items means:
(a) all assets less liabilities, including accrued interest, denominated in the currency (all Investments at market or realisable value);
(b) any currency future, at the nominal value of the contract;
(c) any forward contract for the purchase or sale of the currency, at the contract value, including any future exchange of principal associated with currency swaps;
(d) any foreign currency options at the net delta (or delta-based) equivalent of the total book of such options;
(e) any non-currency option, at market value;
(f) any irrecoverable guarantee;
(g) any other off-balance sheet commitment to purchase or sell an asset denominated in that currency;
any future income or expense not yet accrued but fully hedged, provided IMRO's prior written permission has been obtained. (Typically, anticipated income or expenditure which has been included in determining spot or forward purchases and sales.)

Relevant System means a system by which dematerialised instructions are sent pursuant to paragraph 16A of Schedule 1 to the Act.

Reportable means a transaction which:

Transaction

1.2.96; RN23

(a) is executed in the EEA;
(b) relates to an instrument (other than an Excluded Instrument) which is dealt in on a Regulated Market; and
(c) is carried out for valuable consideration; but excludes a transaction carried out for the purpose of stock borrowing or stock lending, or carried out in connection with a repurchase or reverse repurchase agreement.
The exemption from stamp duty or ad valorem stamp duty on the transfer of an instrument which would normally be subject to stamp duty may be considered as indicative of a transfer which has not been carried out for valuable consideration. A transfer by or on behalf of a charity will nonetheless be reportable where it is carried out for valuable consideration notwithstanding that such a transfer may not be subject to stamp duty or ad valorem stamp duty. Internal agency crosses and bed and breakfast arrangements will normally be considered to be carried out for valuable consideration.

Reporting Currency means the currency in which the Firm's books of account are maintained.

ISD Firms
1.1.96; RN15
Non-ISD Firms
1.7.96; RN15

Responsible Officer means any Officer or employee to whom a Firm has delegated responsibility for the particular function to which the context refers and who may commit the Firm in exercising that function.

Restricted Information means "Restricted Information" if it was obtained for the purposes of, or in the discharge of, IMRO's functions so long as it has not been made available to the public, either by IMRO in accordance with these Rules, or by or on behalf of the Firm, or by a third party.

Rules
16.2.94; RN24

Rules Waiver (Examination Exemptions) Committee
1.7.94; RS8

Sale
30.11.91

Scheme
30.11.91

sale includes a disposal for valuable consideration where disposal has the meaning given by paragraph 28(2) of Schedule 1 to the Act.

Scheme means a Collective Investment Scheme.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scheme Documents 30.11.91</td>
<td>means the document or documents governing the operation of Scheme.</td>
</tr>
<tr>
<td>Scheme Management Activity 1.7.95; RN13</td>
<td>means the management by an Operator of the Scheme and/or of the property held for or within the Scheme of which it is the Operator and shall include the management of the property of an Open-ended Investment Company by the company itself as its Operator but shall exclude the management of the property of an Open-ended Investment Company by another person as its Operator (and shall exclude in all cases activities relating to transactions in units, shares or interests in the Scheme).</td>
</tr>
<tr>
<td>Scheme Particulars 30.11.91</td>
<td>means a document containing information about a Regulated Collective Investment Scheme and subject to requirements as to the content of scheme particulars made either; (a) under the Act; or (b) in the case of a scheme recognised under Section 86 of the Act, by the certifying Member State.</td>
</tr>
<tr>
<td>Scheme Year 1.3.93; RS6</td>
<td>has the meaning given in the Occupational Pension Schemes (Disclosure of Information) Regulations 1986 as amended by the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 1992 and, in the case of an OPS Collective Investment Scheme, has the meaning given in those regulations as if 'OPS Collective Investment Scheme' were substituted for 'Scheme'.</td>
</tr>
<tr>
<td>Secretary of State 30.11.91</td>
<td>includes any Minister of the Crown responsible for exercising powers and duties contained in the Act, and any person duly authorised on his behalf.</td>
</tr>
<tr>
<td>Securities 30.11.91</td>
<td>means Shares, Debentures, Government and Public Securities, Warrants and Certificates Representing Securities.</td>
</tr>
<tr>
<td>Series of Transactions 30.11.91</td>
<td>means for the purposes of Rules 3.9(4) to (6) of Chapter II a series of transactions effected with a view to achieving one investment decision or objective.</td>
</tr>
<tr>
<td>Settlement 1.8.94; RS10</td>
<td>means an agreement between IMRO and a Firm, or Registered Individual, to settle disciplinary proceedings on terms agreed by the Enforcement Committee.</td>
</tr>
<tr>
<td>SFA 30.11.91</td>
<td>means The Securities and Futures Authority Limited.</td>
</tr>
<tr>
<td>Share 30.11.91</td>
<td>means an Investment falling within paragraph 1 of Schedule 1 to the Act.</td>
</tr>
<tr>
<td>Short Form Advertisement 16.2.96; RN24</td>
<td>means an advertisement which contains the Advertiser's name and: (a) where the Advertisement has been issued or been caused to be issued by a Firm, one or both of a statement that, or a symbol approved by IMRO to show that, the Advertiser is regulated by IMRO; or (b) where the contents of the Advertisement have been approved by a Firm, a statement of that fact; and in respect of Investment Business, contains nothing other than one or more of the following matters: (i) the Advertiser's address, telephone number, telex number, fax number, symbol and logogram; (ii) a statement describing the Advertiser's business in simple, factual terms; (iii) a statement of the fees charged by the Advertisers for its services;</td>
</tr>
</tbody>
</table>
(iv) a statement identifying the Investments, if any, which the Advertiser may buy or sell (or arrange to buy or sell) and stating in relation to those Investments;  
- indicative prices;  
- differences from previous indicative prices;  
- their incomes and yields;  
- their earnings (or price/earnings ratio);  
(v) a statement, expressed in factual terms and so as not to imply any offer to deal or arrange a deal, that the Advertiser has, alone with the others named in the Advertisement, arranged the issue of or a transaction in a particular Investment.  
(vi) a statement that further information will be supplied on request.

**Short Position**  
30.11.91  
in relation to a person and an Investment of a particular description (including Futures and Options) at a particular time, means the amount by which the number of units of that Investment which, under commitments at that time, that person is, or will afterwards become, entitled or obliged to deliver exceeds the number of the units of that Investment which he holds at that time or which under commitments at that time he is, will or may afterwards become entitled or obliged to acquire.

**SIB**  
31.10.97; RN43  
DEFINITION DELETED. See FSA.

**SIB Core Rule**  
31.10.97; RN43  
See FSA Core Rule

**Significant Complaint**  
1.5.95; RN11  
has its natural meaning, but in any event includes a Complaint which cannot be settled quickly and directly, one which involves sums which are material in relation to the financial circumstances of the Complainant or one which alleges:  
(a) a breach of a Customer Agreement;  
or  
(b) a failure to comply with responsibilities under the regulatory systems;  
or  
(c) bad faith, malpractice or impropriety;  
or  
(d) repetition or recurrence of any matter about which there has been recent complaint.

**Single-Premium Contract**  
30.11.91  
means a Personal Pension Contract under which one contribution only is payable.

**Single-Premium Life Policy**  
30.11.91  
means a Life Policy the terms of which provide for the payment of a single premium at the outset and do not contemplate the payment of any further premiums.

**Single Property Scheme**  
30.11.91  
means a Collective Investment Scheme which is a single property scheme for the purpose of Section 76(4) of the Act.

**Small Business Investor**  
30.11.91  
means:  
(a) a Company or partnership; or  
(b) a trustee acting for a trust; which does not satisfy a size requirement enabling the Company, partnership or trustee to be treated as an Ordinary Business Investor.

**Soft Commission Agreement**  
1.9.95; RN14  
means the agreement referred to in paragraph (a) of Rule 1.7(1) of chapter II, under which a Firm receives Disclosable Softing Services, in return for business put through or in the way of another person whether on a pre-paid, continuous or retrospective basis.
Special Conditions
1.8.94; RS10

means any terms, conditions or restrictions on or subject to which a Firm, Registered Individual or an Applicants is or is proposed to be, admitted or which otherwise apply to the Firm or Registered Individual, over and above any general terms, conditions or restrictions contained in the Rules, or the Memorandum and the Articles.

Specific Investment Advertisement
30.11.91

means an Investment Advertisement which identifies and promotes a particular Investment or particular Investment Services.

Specified Trustee Business
30.11.91

1. means any Investment Business carried on in the UK by a Trustee Firm, but excluding each of the following activities:

(a) Dealing or arranging deals in Investments
   (i) where the deal is transacted or arranged by a Trustee Firm with or through a PTP; or
   (ii) where the dealing or arranging is done in the course of, or is incidental to, an activity of management falling within paragraph (b) below; or
   (iii) where the trust is a Unit Trust Scheme and the deal is or the arrangements are made with a view to either an issue or sale of units in such a Scheme to, or a redemption or repurchase or conversion of such units or a dealing in investments for such a Scheme carried out by with or through, the Operator or on the instructions of the Operator; or
   (iv) where the Trustee Firm, being a bare trustee (or, in Scotland, a nominee) holding Investments for another person, is acting on that person's instructions; or
   (v) where any arrangements do not or would not bring about the transaction in question.

(b) Managing Investments
   (i) where the Trustee Firm has no general authority to effect transaction in Investments at discretion; or
   (ii) if and to the extent that all day-to-day decisions in relation to the management of the Investments or any discrete part of the Investments are or are to be taken by a PTP; or
   (iii) if and to the extent that investment decisions in relation to the Investments or any discrete part of the Investments are or are to be taken substantially in accordance with the advice given by a PTP; or
   (iv) where the Trustee Firm is a personal representative or executor and is acting in that capacity; or
   (v) where the trust is a Unit Trust Scheme and all day-to-day investment decisions in the carrying on of that activity are or are to be taken by the Operator of the Scheme.

(c) Investment advice
   (i) where the relevant advice:
      (A) does not recommend the entry into any investment transaction or the exercise of any right conferred by any Investment to acquire, dispose of, underwrite or convert such an Investment; and
      (B) is accompanied by a recommendation that independent advice be obtained; or
   (ii) if and to the extent that the relevant advice is in substance the advice of a PTP; or
   (iii) where the relevant advice is given by the Trustee Firm acting in the capacity of personal representative or executor.

(d) Establishing, operating or winding up a Collective Investment Scheme including acting as trustee of an Authorised Unit Trust Scheme but only to the extent that such activities do not otherwise constitute Specified Trustee Business.

(e) Any Trustee Activity undertaken as Trustee of an issue of debentures or government or public securities
   (i) where the issue is made by a company listed on a Recognised Investment Exchange or on a Designated Investment Exchange (or by a wholly-owned subsidiary of such a company); or
   (ii) where the issue is listed or traded either on a Recognised Investment Exchange or on a Designated Investment Exchange or on the Sociëtës de la Bourse de Luxembourg; or
   (iii) where the issue is made by a government, local authority or public authority; or
(iv) where the aggregate amounts issued (pursuant to the trust deed or any deed supplemental thereto and ignoring any amounts redeemed, repurchased or converted) exceed the sum of £10,000,000.

2. For the purpose of this definition of “Specified Trustee Business”:
   (a) a transaction is entered into through a person if that person:
      (i) enters into it as agent; or
      (ii) arranges for it to be entered into as principal or agent by another person and the arrangements are such that they bring about the transaction in question;
   (b) investment transaction means a transaction to purchase, sell, subscribe for or underwrite a particular investment and “investment decision” means a decision relating to an investment transaction;
   (c) debentures means any securities falling within the definition contained in paragraph 2 of Schedule 1 to the Act;
   (d) government or public securities means any securities falling within the definition contained in paragraph 3 of Schedule 1 to the Act;
   (e) government, local authority or public authorities has the meaning ascribed in paragraph 3 of Schedule 1 to the Act;
   (f) in determining the size of an issue of debentures or government or public securities made in a currency other than sterling, the amount of the issue shall be converted into sterling at the exchange rate prevailing in London on the date of issue.

Specimen Qualifying Undertaking 30.11.91

Specimen means the specimen undertaking in Table 2.6(2) of Chapter V.

Subordinated Loan Agreement ISD Firms 1.1.96; RN15 Non-ISD Firms 1.7.96; RN15

means the agreement set out in Table 2.5(5) of Chapter V.

SRO means a body regulating the carrying on of Investment Business, declared to be a self-regulating organisation under Section 10 of the Act.

SROF means a body regulating the carrying on of regulated business by a Regulated Friendly Society, declared to be a self-regulating organisation for friendly societies pursuant to paragraph 3 of Schedule 11 to the Act.

Note: IMRO is a recognised self-regulating organisation for friendly societies.

Stabilisation 30.11.91

means the making of bids or effecting of transactions for the purpose of stabilising the price of securities the subject of a recent new issue.

Statement of Prescribed Information 30.11.91

in relation to an advertisement for BES Shares, means information which a person to whom the advertisement is addressed and his professional advisers would reasonably expect to require and to find in the advertisement in order to enable him to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the company issuing the BES Shares and the rights attaching to those BES Shares.

Statement of Protection 30.11.91

means a statement which may be supplied to a Non-private Customer under Rule 2.3(2) of Chapter II and standards for which are set in Appendix 2.4(2)(b) of that Chapter.
Statement of Representation 30.11.91 means a written representation statement in the form set out in and containing the contents required by Table 1.3(2) of Chapter IV.

statutory restrictions on RN24 means Part V of the Criminal Justice Act 1993. insider dealing 16.2.96;

Statutory Rules 31.10.97; RN43 means the rules or regulations made by FSA:
(a) under Section 48 (Conduct of Business Rules), 49 (Financial Resources Rules), 55 (Clients' Money) and 56 (Unsolicited Calls) of the Act, the provisions of which it has designated to apply, to such extent as may be specified, to a Firm in the carrying on of its Regulated Business; and
(b) under Section 51 (Cancellation Rules) and 54 (Compensation Fund) which are binding on the Firm; or
in the case of Regulated Friendly Societies, the rules and regulations made by the Registrar:
(a) under paragraphs 14, 19 and 20 of Schedule 11 of the Act, the provisions of which the Registrar has designated to apply, to such extent as may be specified, to a Regulated Friendly Society which is a Firm in the Carrying on of its Regulated Business; and
(b) under paragraphs 15 and 18 which are binding on such a Regulated Friendly Society.

Note: The IMRO rules governing the Investment Business of Regulated Friendly Societies are those set out or referred to in Chapter III of the Rules.


Stop Notice 30.11.91 means a written notice issued by IMRO pursuant to Rule 2.1(3) of Chapter IV requiring that a Clearance Event shall not occur.

The Stock Exchange 30.11.91 means The London Stock Exchange.

Subsidiary 30.11.91 means a subsidiary within the meaning given by Section 736 of the Companies Act 1985 (as may be from time to time amended), or a subsidiary undertaking.

Summary Fine 1.8.94; RS10 means a fine levied on a Firm under Rule 3.1(1) of Chapter VIII.

Takeover Advertisement 30.11.91 means an advertisement to which the Takeover Code applies (or would apply but for any exemption granted by the Takeover Panel).

Takeover Code 30.11.91 means the City Code on Takeovers and Mergers and the Rules Governing Substantial Acquisitions of Shares published by the Takeover Panel.

Takeover or Related Operation 30.11.91 means:
(a) any offer to which the Takeover Code applies and any transaction or arrangement which is of such a nature that the Takeover Code would have applied to it had it concerned a company whose shares are listed under Part IV of the Act and whose head office and place of central management are in the UK;
(b) any offer, transaction or arrangement relating to the purchase of Securities with a view to establishing or increasing a strategic holding of a person, or of a person together with his Associates in the Securities concerned;
(c) any transaction or arrangement entered into in contemplation or furtherance of any offer, transaction or arrangement falling within (a) or (b) above; and
(d) any transaction or arrangement entered into by way of defence or protection against any offer, transaction or arrangement falling within (a), (b) or (c) above which has taken place or which is contemplated.

**Takeover Panel**

30.11.91 means The Panel on Takeovers and Mergers

**Terms-of-Business Letter**

30.11.91 is a Customer Agreement which may be supplied to a Non-private Customer under Rule 2.3(2) of Chapter II and standards for which are set in Appendix 2.4(2)(a) of that Chapter.

**Threshold Competence**

1.7.94; RS8 means the level of knowledge and skill necessary for a Company Representative or employee to be competent to operate without Direct Supervision.

**Tied Firm**

16.2.96; RN24 means a Product Company or its Marketing Group Associate.

**Total Cash Requirement**

ISD Firms

1.1.96; RN15 Non-ISD Firms

1.7.96; RN15 has the meaning given in Rule 2.3(5) of Chapter V.

**Trade Descriptions Acts**


**Trading Book**

ISD Firms

1.1.96; RN22 Non-ISD Firms

1.7.96; RN22 in relation to a Firm’s business or Exposures means:

(a) its proprietary positions in financial instruments:

(i) which are held for resale and/or are taken on by the Firm with the intention of benefiting in the short term from actual and/or expected differences between their buying and selling prices or from other price or interest-rate variations;

(ii) arising from matched principal broking;

(iii) taken in order to hedge other elements of the Trading Book;

(b) exposures due to unsettled securities transactions, free deliveries, OTC Derivative instruments, repurchase agreements and securities lending transactions based on securities included in

(a)(i) to (iii) above, reverse repurchase agreements and securities borrowing transactions based on securities included in

(a)(i) to (iii) above; and

(c) fees, commission, interest and dividends, and margin on exchange-traded derivatives which are directly related to the items included in (a) and (b) above.

**Trainee**

1.7.94; RS8 means a Company Representative or employee who has not yet reached Threshold Competence.

**Transfer Value**

means an analysis performed to make a

**Analysis**

1.7.94; RS9 comparison between the potential benefits under an Occupational Pension Scheme and the potential benefits afforded by a personal pension or a buy-out pension contract.

**Transitional Provisions**


**trust**

30.11.91 includes a bare trust or, where the laws of Scotland apply, a nominee for another person, an unadministered estate and acting as receiver, committee or curator bonis or under a power of attorney which is registered by the Court under Section 6 of the Enduring Powers of Attorney Act 1985 or which, where the laws of

**Note:**

A Tied Firm is not necessarily a Firm for the purposes of the Rules.
Scotland apply and the grantor has become mentally incapacitated, continues to have effect notwithstanding such mental incapacity. "Trust" does not (for the purposes of the Rules in Chapters II and IV which apply to Trustee Firms by virtue of Chapter II Section 11) include an implied, resulting or constructive trust of which the trustee is unaware. Where the context to requires the word "trust" shall be construed as if the rights, duties and obligations created or arising under the relevant trust or by operation of law for the benefit of a beneficiary or class of beneficiaries and their vesting in or imposition on the trustee resulted in the creation of a legal entity separate from the trustee, such entity owning the assets comprised in the trust fund and being administered by the trustee for the benefit of the beneficiary or class of beneficiaries in accordance with the rights, duties and obligations vested in or imposed on him.

**Trust**

means a beneficiary under a trust (not being the settlor) who benefits from the performance by a Firm as trustee of Investment Services relating to the management of the trust assets.

**Beneficiary**

includes a bare trustee (or, where the laws of Scotland apply, a nominee for another person), a personal representative or executor and a person acting as receiver, committee or curator bonis or under a power of attorney which is registered by the Court under Section 6 of the Enduring Powers of Attorney Act 1985 or which, where the laws of Scotland apply and the grantor has become mentally incapacitated, continues to have effect notwithstanding such mental incapacity. "Trustee" does not include (for the purpose of the Rules in Chapters II and IV which apply to Trustee Firms by virtue of Section 11 of Chapter II) a person acting as trustee of an implied, resulting or constructive trust of which the trustee is unaware and the term "co-trustee" shall be construed accordingly.

**Trustee**

means, in relation to a Firm, any activity undertaken in the course of or incidental to the exercise of any of its powers, or the performance of any of its duties, when acting in its capacity as a trustee.

**Activity**

means any Firm to which the Rules of Section 11 of Chapter II apply by virtue of Rule 11.1(1) of Chapter II, but excludes a Firm to whom the Rules in Section 10 of Chapter II apply.

**Trust Fund**

includes the assets of an unadministered estate and the assets of a person on whose behalf a trustee is acting as receiver, committee or curator bonis or under a power of attorney which is registered by the Court under Section 6 of the Enduring Powers of Attorney Act 1985 or which, where the laws of Scotland apply and the Grantor has become mentally incapacitated, continues to have effect notwithstanding such mental incapacity. "Trust Fund" does not (for the purposes of the Rules in Chapters II and IV which apply to Trustee Firms by virtue of Section 11 of Chapter II) include funds subject to an implied, resulting or constructive trust of which the trustee is unaware.

**Trust Money**

means a bank account the title of which indicates that the money held in that account is trust money and which identifies the trust to which that money belongs.

**Bank Account**

means an agreement in written form to which the Customer has signified his assent in writing in circumstances where the Firm is satisfied that the Customer has had a proper opportunity to consider its terms.

**Customer Agreement**

Note:

Assent in writing to a Two-way Customer Agreement is only required of the Customer, not the Firm.

**Two-way Customer Agreement**

means an undertaking for collective investment in transferable securities.

**UCIT**

means an undertaking for collective investment in transferable securities.
UK means Great Britain and Northern Ireland.

UK Authorised Investment Firm has the meaning given in the ISD Regulations. Note: A UK Authorised Investment Firm is not necessarily a Firm for the purposes of the Rules.

UK Open-Ended Investment Company means an investment company with variable capital within the meaning given in regulation 3(2) of the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996.

Uncovered Open Position in relation to a person and an Investment of a particular description at a particular time, means that person’s Open Position in relation to such Investment at that time, to the extent that such person’s portfolio (or, as the case may be, the portions of such portfolio for which the Firm is responsible) does not at such time contain assets in any appropriate form which are or will be available and adequate to meet the commitment or liability represented by such Open Position.

Underwriting ISD Firm means a commitment to take up securities where others do not acquire or retain them.

Non-ISD Firms

Unit-linked Life Policy means a Life Policy the amount of any of the benefits of which is determined in reference to the value of property of any description (whether or not specified in the Life Policy) or fluctuations in the value of such property or income from any such property or fluctuations in an index of the value of such property.

units means the rights or interests (however described) of the participants in a Collective Investment Scheme.

Unit Trust Manager means the manager of a Unit Trust Scheme.

Unit Trust Scheme means a Collective Investment Scheme under which the property in question is held on trust for the participants but excluding, for the purposes of the Rules, limited partnerships.

Unregulated Collective Investment Scheme means a Collective Investment Scheme which is not a Regulated Collective Investment Scheme.


VAT means value added tax as provided for in the Value Added Tax Act 1983 and legislation (delegated or otherwise) supplementary thereto and any similar tax replacing or introduced in addition to the same.

Venture Capital Business means the business of investing in, advising on, managing or arranging transactions in Venture Capital Investments or advising, managing or operating portfolios or Collective Investment Schemes which (apart from funds awaiting investment) invest only in Venture Capital Investments.
Venture Capital Investment means an Investment which is:
30.11.91
(a) in a new or developing company or venture; or
(b) in a management buy-out or buy-in; or
(c) made as a means of financing the investee Company and accompanied by a right of consultation, or rights to information, or board representation, or management rights; or
(d) acquired with a view to, or in order to facilitate, a transaction falling within (a) to (c) above; or
(e) acquired in such other circumstances as IMRO may from time to time agree (whether by general or specific consent).

Waiting Period means:
30.4.99; RN50
(a) the period of 28 days within which IMRO may, under Rule 2.1(3) of Chapter IV, inform a Firm that it has no objection to the occurrence of a Clearance Event;
(b) the period of 7 days within which IMRO may, under Rule 5.1(7) of Chapter VII, inform a Firm and an individual that it has no objection to the proposed reactivation of the individual's registration;
(c) the period of 3 months in respect of an ISD Firm's change of Controller or Controller's interest (as set out in paragraph 1 of Part I Table 2.1(i) of Chapter IV) for the purposes of Rule 2.1(3) of Chapter IV; and [RN 50] any such extension of these periods as IMRO may determine.

Warning means a formal warning issued to a Firm or a Registered Individual in accordance with Rule 1.1(1), paragraph (b) or (c) (ii) of Rule 4.6(1), or paragraph (b) or (c) (ii) of Rule 4.6(4) of Chapter VIII.

Warrant means an Investment falling within paragraph 4 of Schedule 1 to the Act.

Warrant Fund means a Regulated Collective Investment Scheme which is permitted to invest entirely in warrants.

Zone A Country means a country which is a member of the OECD, or which has negotiated special lending arrangements with the IMF.
1.1.96; RN15 Note: Countries which currently fall within this definition are:
Australia, Austria, Belgium, Bermuda, Canada, Denmark, Finland, France, Germany, Gibraltar, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Portugal, Saudi Arabia, Spain, Sweden, Switzerland, Turkey, UK, Channel Islands, Isle of Man and United States.

Zone B Country means a country which is not a Zone A Country.
1.1.96; RN15

2. INTERPRETATION

(1) Interpretation of Rules

The Rules shall be interpreted in accordance with the definitions set out in this Schedule.

30.11.91

(2) Principles

The Principles do not form part of the Rules but shall have effect on the basis set out in the Act and the Introduction to the Principles.

30.11.91
(3) Tables
30.11.91
Tables are part of the Rules and shall have full effect accordingly.

(4) Guidance and
Appendices
1.7.95; RN13
Guidance set out in the Rulebook is intended as formal guidance to assist Firms in interpreting the Rules and in judging whether any particular course of conduct meets the standards called for by the Rules. In particular, such guidance constitutes formal guidance on compliance with the Rules for the purpose of Rule 4.1 of Chapter I. Accordingly, a Firm will be taken to act in conformity with the Rules to the extent that, in reliance on such guidance, it believes, on reasonable grounds, that it is acting in conformity with the Rules. Such guidance does not preclude, and shall not be construed as precluding, alternative procedures and conduct as a means of compliance with the relevant Rules; and any such conduct or procedure which differs from that described in such guidance shall not raise or be construed as raising any presumption of a breach of any Rule. However, the onus will be on the Firm to show that such alternative procedures or conduct constitutes compliance with the relevant Rule. Appendices contain further guidance and shall be interpreted in like manner.

(5) Notes
30.11.91
Text printed in italics and headed "Note" is no part of the Rules and neither affects the construction of the Rules nor constitutes formal guidance on compliance with them for the purpose of Rule 4.1 of Chapter I of the Rules.

(6) Annexes
30.11.91
Annexes are documents which may be referred to in a Rule, Guidance or Appendix but are not part of the Rules and do not of themselves affect the construction of the Rules or have effect in determining whether a Firm's conduct amounts to compliance with, or breach of, a Rule.

(7) Headings
30.11.91
Headings are not part of the Rules and do not affect the construction of the Rules.

(8) IMRO
Guidance
30.11.91
IMRO may from time to time assist in providing guidance on the interpretation or applicability of any of the Principles or Rules. Such guidance (except to the extent it subsequently is constituted as part of the Rules or formal guidance) will neither form part of the Rules nor will it constitute
formal guidance on compliance with them, nor will it be binding on IMRO, or on any other person, nor will it affect the construction of the Rules or have effect in determining whether a Firm's conduct amounts to compliance with, or breach of, a Rule. The Firm shall have the ultimate responsibility for satisfying itself that it is complying with the Rules.

(9) References to IMRO 30.11.91

Where under the Rules there is a reference to action being taken, powers or discretion being exercised or matters being considered by IMRO, such actions may be taken, powers or discretions may be exercised or matters may be considered, by the Board of IMRO or by any committee of the Board of IMRO, or by any person authorised by the Board of IMRO or such committee, whether specifically or generally for the purposes of the Rules, and references to IMRO shall be construed accordingly.

(10) Miscellaneous

(a) Neither a Soft Commission Agreement, nor an arrangement for the payment of disclosable commission, is to be taken for the purposes of Rule 3.3(1) of Chapter II (Fair Treatment) as a relationship which gives rise to a conflict of interest in relation to transactions effected under the agreement or arrangement.
(b) References to an Investment include an Ancillary to that Investment.
(c) Unless the context otherwise requires, words importing the neuter or masculine gender include the neuter, masculine and feminine; words importing the singular number only shall include the plural number and vice versa; words importing persons shall include corporations and references to statutory provisions or regulations made thereunder and the rules of FSA or an SRO shall include those provisions, regulations or rules as amended, extended, consolidated, substituted or re-enacted, as the case may be, from time to time.
(d) References to the effecting of a transaction by a Firm on behalf of another person are references to the complete execution of a transaction.
(e) References to procuring a person to subscribe for BES Shares, to facilitating a person to subscribe for BES Shares and to issuing or distributing an advertisement relating to BES Shares are references respectively to such
procuring, facilitating, issuing, and distributing as is done with the express intention that persons who are so procured or who respond to the advertisement or prospectus will enjoy such relief from taxation as is afforded by Chapter III of Part VII of the Income and Corporation Taxes Act 1988.

(f) References to Contracts for Differences do not include references to Investments of the description referred to in paragraph 3 of Schedule 1 to the Act which confer benefits which are linked to the performance of an index of prices or values.

(g) References to time are to London time, unless otherwise stated.

(h) 'Day' means calendar day, unless otherwise stated.

3. CITATION, COMMENCEMENT AND PURPOSE

(1) Citation
30.11.91
These Rules are made on 6 August 1991 and may be cited as 'the IMRO Rules 1991'.

(2) Commencement
30.11.91

(3) Purpose
30.11.91