Isle of Man

Ellan Vannin

AT 8 of 2008

FINANCIAL SERVICES ACT 2008

AS AMENDED BY FINANCIAL SERVICES (MISCELLANEOUS PROVISIONS) BILL

DRAFT FOR CONSULTATION 27/06/2025

(APPENDIX D)

Isle of Man
Ellan Vannin

FINANCIAL SERVICES ACT 2008

Index

Section **Page**

Isle of Man

Ellan Vannin

FINANCIAL SERVICES ACT 2008

Received Royal Assent: *17 June 2008*
Announced to Tynwald: *17 June 2008*
Commenced: *1 August 2008*

AN ACT to repeal and replace with modifications certain enactments relating to the financial services industry and the Isle of Man Financial Services Authority; and for connected purposes.[1]

PART 1 – THE REGULATOR AND THE REGULATORY OBJECTIVES

1 The Isle of Man Financial Services Authority

(1) There is a statutory board known as the Isle of Man Financial Services Authority (as established by article 4 of the Transfer of Functions (Isle of Man Financial Services Authority) Order 2015) (in this Act referred to as "the Authority").

(2) Schedule 1, which makes provision about the constitution, functions, proceedings and status of the Authority, has effect.[2]

2 Exercise of functions to be compatible with the regulatory objectives

(1) The functions of the Authority shall, so far as is reasonably practicable, be exercised —

(a) in a way that is compatible with the regulatory objectives set out in subsection (2); and

(b) in a way that the Authority considers most appropriate for the purpose of meeting those objectives.

(2) The regulatory objectives are —

(a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;

(b) the reduction of financial crime; and

(c) the maintenance of confidence in the Island's financial services, insurance and pensions industries through effective regulation, thereby supporting the Island's economy and its development as an international financial centre.

(3) Subsection (1) shall apply in respect of the Treasury when discharging its functions under this Act.[3]

PART 2 – REGULATED ACTIVITIES

CHAPTER I

Regulated Activities

3 Regulated activities

(1) An activity is a regulated activity if —

(a) it is a financial services activity of a specified kind; and

(b) it is undertaken by way of business.

(2) In subsection (1), "financial services activity" includes —

(a) deposit taking;

(b) investment business;

(c) any service to a collective investment scheme;

(d) corporate services;

(e) trust services;

(f) any service or activity involving money transmission;

(g) any other financial service or financial activity of a specified kind that is carried on by a person of a specified description.

(3) In subsection (2), the generality of paragraph (g) is not limited by paragraphs (a) to (f).

(4) The expressions used in subsection (2)(a) to (f) shall have such meaning as may be specified.

(5) In this section, "specified" means specified in an order made by the Treasury.

3A Transfers of business including deposit-taking

Schedule 1A (transfer of business including deposit-taking) has effect.[4]

CHAPTER II

The General Prohibition

4 The general prohibition

(1) A person must not carry on, nor hold themself out as carrying on, in or from the Island, a regulated activity —

~~(a) in respect of which no licence is in force; or~~

~~(b) if such a licence is in force, other than in accordance with the conditions, if any, of the licence.~~

(a) in respect of which no licence is in force;

(b) if such a licence is in force, other than in accordance with the conditions, if any, of the licence; or

(c) at any time when the licence is suspended.

(2) Without prejudice to the generality of subsection (1), for the purposes of this Act, a person is treated as carrying on a regulated activity —

(a) in the Island if that person —

(i) carries on a regulated activity from a permanent place of business maintained by that person in the Island; or

(ii) engages in the Island in one or more of the activities which constitute a regulated activity and doing so constitutes the carrying on by that person of a business in the Island;

(b) from the Island if that person is —

(i) a limited partnership registered in the Island under Part II of the *Partnership Act 1909*;

(ii) a company incorporated outside the Island that is registered under the *Foreign Companies Act 2014*;[5]

(iii) a limited liability company formed under the *Limited Liability Companies Act 1996*; or

(iv) a company incorporated in the Island under the Companies Acts 1931 to 2004;

(v) a company incorporated under the *Companies Act 2006*; or

(vi) a foundation established under the *Foundations Act 2011*,[6]

and carries on a regulated activity outside the Island.

(3) Without prejudice to the generality of subsection (1), for the purposes of this Act a person is treated as holding themselves out as carrying on, in or from the Island, a regulated activity if that person (whether inside or outside the Island) —

(a) by means of any words in the name, title, contents or address of a web site or page or an internet site or page; or

(b) by means of any words in an email name or address or in the name, title or subject matter of an email; or

(c) by means of any words in a domain name,

expressly or by implication indicates that that person, or another, is a permitted person or carries on a regulated activity in, from or in connection with the Island, either on their own or another's behalf or as an intermediary for another.

CHAPTER III

Licensing of Regulated Activities

5 Application for a licence

(1) Every application for a licence to carry on a regulated activity shall be made to the Authority.[7]

(2) An application under subsection (1) shall be in such form as is required by the Authority, together with such documents and information as it may require.[8]

6 Circumstances in which a licence will not be issued

(1) A licence will not be issued under section 7 unless the Authority is satisfied that —

(a) the applicant is a fit and proper person to carry on the regulated activity and provide the services described in that application;

(b) any controller or director of the applicant is a fit and proper person to act as such;

(c) such other persons as appear to the Authority to be key persons are fit and proper persons to act as such; and[9]

(d) the applicant is managed and controlled in the Island.[10]

(2) In assessing whether an applicant is a fit and proper person under subsection (1), the Authority will have regard to the information before it as to —

(a) the integrity, competence, financial standing, structure and organisation of the applicant;

(b) the integrity, competence and financial standing of —

(i) any controller or director of the applicant;

(ii) key persons in relation to the applicant;

(c) the description of the business the applicant proposes to carry on; and

(d) any other persons employed or to be employed by the applicant, or associated with the applicant for the purposes of its business.[11] [12]

(3) The Authority may publish guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as required by subsection (1).[13]

(4) The guidance shall be published in such form and in such manner as the Authority may decide.[14]

(5) Subsections (2) and (3) do not affect the generality of subsection (1).

7 The licence

(1) The Authority shall, in relation to every application for a licence to carry on a regulated activity —

(a) issue the licence;

(b) issue the licence, subject to conditions; or

(c) refuse the application.[15]

(2) Subject to the provisions of this Act, a licence to carry on a regulated activity shall remain in force until revoked or surrendered.

(3) The conditions which the Authority may impose may include a condition that —

(a) the person to whom the licence is issued shall comply with the Rule Book or such provisions of the Rule Book as are specified;

(b) the Rule Book shall apply to that person with such exceptions and modifications as may be specified.[16]

(4) The Authority shall give to the person concerned written notice of a decision under subsection (1) and, where the decision is under paragraph (b) or (c) of that subsection, a written statement of the reasons for the decision.[17]

(5) A licence may be issued in respect of one or more regulated activities and where a licence is issued in respect of more than one regulated activity, different conditions may be imposed in respect of different regulated activities.

(6) If the holder of a licence contravenes any condition imposed under this section, the Authority may undertake action for a breach.[18]

(7) In this Act, a person who has been issued with a licence under this section is referred to as a "**licenceholder**".

8 Alteration of conditions of existing licences

(1) The Authority may at any time —

(a) make a licence subject to conditions or, as the case requires, further conditions; or

(b) vary or revoke any condition.[19]

(2) Where a licence is issued in respect of more than one regulated activity, the powers under subsection (1) may be exercised in respect of the conditions imposed in respect of any or all of those activities.

(3) The Authority shall give written notice to the person concerned of any decision to vary or revoke any condition under subsection (1) together with a statement of the reasons for the decision.[20]

(4) If the holder of a licence contravenes any condition imposed under this section, the Authority may undertake action for a breach.[21]

9 Revocation or suspension of a licence

(1) The Authority may at any time revoke or suspend a licence to carry on a regulated activity.[22]

(1A) The Authority may, in particular, revoke or suspend a licence to carry on a regulated activity if it is no longer satisfied that the licenceholder is a fit and proper person to carry on a class of regulated activity in respect of which the licence was granted.

(2) The Authority shall give written notice to the person concerned of any decision to revoke or suspend a licence under this section together with a statement of the reasons for the decision.[23]

(3) Where a licence is issued in respect of more than one regulated activity, the powers under this section may be exercised in respect of any or all of those activities.

(4) Where the Authority suspends a licence under subsection (1), it shall review the suspension on a regular basis.[24]

PART 3 – DIRECTORS AND CONTROLLERS, ETC.

10 Persons unfit to be directors, controllers or key persons[25]

~~(1) If, on reasonable grounds, it appears to the Authority that a person is not a fit and proper person —~~

~~(a) to be appointed as a director or key person; or~~

~~(b) to become a controller,~~

~~of a licenceholder, the Authority may direct that such person shall not, without the written consent of the Authority, be appointed as such a director or key person or become such a controller.~~[26]

(1) If a licenceholder does not satisfy the Authority that a person is a fit and proper person —

(a) to be appointed as a director or key person; or

(b) to become a controller,

of that licenceholder (whether or not that person is or has previously been considered as such a fit and proper person), the Authority may direct that such person shall not, without the written consent of the Authority, be appointed as such a director or key person or become such a controller.

(2) If, on reasonable grounds, it appears to the Authority that any —

(a) director or key person; or

(b) controller,

of a permitted person, is not a fit and proper person to continue as such, the Authority may direct that such person shall not, without the written consent of the Authority, continue as such a director, key person or controller.[27]

(3) The Authority shall give written notice to the person concerned of any decision to make a direction under this section together with a statement of the reasons for the decision.[28]

(4) Subject to subsection (5), where a notice has been given under subsection (3), the direction shall take effect —

(a) if no appeal under section 32 is made within the period prescribed for the purposes of such an appeal, on the expiry of that period; or

(b) if there is an appeal under section 32 —

(i) where the appellant abandons the appeal, on the date of abandonment; or[29]

(ii) where the decision of the Authority is confirmed, on the date of confirmation; or[30]

(iii) where the decision of the Authority is varied, on such date as the Tribunal constituted under section 32 directs.[31]

(5) If the Authority is of the opinion that a direction should have immediate effect, the notice under subsection (3) shall contain a statement to that effect together with the reasons for that opinion, and the direction shall have effect on the giving of the notice.[32]

(6) Any direction or consent by the Authority under subsection (1) or (2) may be —

(a) given subject to conditions;

(b) varied from time to time; and

(c) revoked at any time,

and the Authority shall give written notice to the person concerned of any decision to exercise the powers conferred by paragraph (a), (b) or (c).[33]

(7) No person shall —

(a) accept or continue in any appointment referred to in subsection (1)(a) or (2)(a); or

(b) become or continue as a controller,

in contravention of a direction under this section.

(8) A licenceholder must not appoint a person in contravention of a direction under subsection (1).[34]

(9) It shall be the duty of a permitted person to take reasonable care not to continue the appointment of a person in contravention of a direction under subsection (2).

10A Prohibitions

(1) The Authority may impose a prohibition if it appears to the Authority that an individual is not a fit and proper person to perform one or more functions in relation to a regulated activity carried on, or proposed to be carried on, by a permitted person.[35]

(2) Before imposing a prohibition, the Authority must give the individual whom it proposes to prohibit an opportunity to make representations in accordance with section 10B.[36]

(3) A prohibition may prevent an individual from performing, either in relation to a particular permitted person, a specified class of permitted person, or generally, —

(a) any function;

(b) a specified function; or

(c) a function of a specified class.

(4) A prohibition may relate to, —

(a) any regulated activity;

(b) a regulated activity specified in the prohibition; or

(c) a regulated activity of a specified class.

(5) An individual commits an offence if he or she performs, or agrees to perform, a function which he or she is prohibited from performing.

(6) A permitted person commits an offence if without reasonable excuse the permitted person permits an individual to perform a function which the individual has been prohibited from performing.

(7) A prohibition operates subject to subsections (8) to (10).

(8) Notice of a prohibition must be served upon the individual prohibited, either personally or by registered post to the individual's last known address.

(9) Once it has been served a prohibition comes into operation on —

(a) the expiry of time for appealing against it under section 32; or

(b) if an appeal is brought within that time, on the determination or withdrawal of that appeal.

This subsection is subject to subsection (10).

(10) Section 10(5) applies to a prohibition as it applies to a direction under that section.

(11) A notice of prohibition must —

(a) state the terms of the prohibition;

(b) state the reasons for imposing the prohibition; and

(c) give particulars of the right of appeal under section 32.[37]

10B Prohibition procedure

(1) If the Authority proposes to impose a prohibition under section 10A, it must give written notice to that effect (a "preliminary notice") to the individual whom it proposes to prohibit.[38]

(2) The preliminary notice must —

(a) state that the Authority proposes to impose a prohibition;[39]

(b) state the terms of the proposed prohibition;

(c) state the grounds for imposing the prohibition;

(d) state that within 28 days the individual proposed to be prohibited may make representations to the Authority in such manner as the Authority may specify in the preliminary notice; and[40]

(e) give particulars of the right of appeal under section 32 that would be exercisable if the Authority imposed the prohibition.[41]

(3) The Authority must have regard to any representations made in accordance with subsection (2)(d) before imposing a prohibition.[42] [43]

10C Prohibitions: variation and revocation

(1) On the application of a prohibited person, the Authority may vary or revoke a prohibition.[44]

(2) The Authority must give the prohibited person a statement of its reasons for any decision it makes on an application under subsection (1).[45] [46]

10D List of prohibitions

(1) The Authority must maintain and publish a list of prohibitions.[47]

(2) The list must specify the individual prohibited and the functions, or descriptions of functions to which the prohibition applies.[48]

11 Warning notices

(1) The Authority may —

(a) before making a direction under section 10(2);

(aa) before imposing a prohibition under section 10A(1);[49] or

(b) in any other circumstances that the Authority considers it appropriate to do so,[50]

give a written warning notice under this section to a person who is or has been a director, key person or controller ("the relevant person") of a permitted person.[51]

(1A) Where it considers it appropriate to do so, the Authority may give a written warning notice under this section to an individual who is or has been employed by a permitted person, or who otherwise carries out or has carried out work for or on behalf of a permitted person.

(2) A warning notice under this section is a notice that the Authority has grounds to believe that such activities or circumstances as are specified in the notice are prejudicial to the ~~relevant~~ notified person's fitness and propriety and shall be accompanied by a statement of the reasons for the giving of the notice.[52]

(3) A warning notice may (but need not) —

(a) propose that the ~~relevant~~ notified person take such action as is specified in the notice;[53]

(b) request the ~~relevant~~ notified person to propose action; or[54]

(c) specify action that the ~~relevant~~ notified person must take and the time within which it must be taken.[55]

(4) Where a warning notice has been given under this section, the Authority shall, before making a direction under section 10(2), or imposing a prohibition under section 10A, take into account any action taken by the ~~relevant~~ notified person in response to the warning notice.[56]

(5) The giving of a warning notice under this section —

(a) does not limit the powers of the Authority under section 10 or 10A; and[57]

(b) is not required before the Authority may exercise those powers.[58]

(6) A warning notice issued under this section shall have effect —

(a) for a period of up to 3 years from the date on which it is issued under subsection (1) and such period shall be specified in the notice; or[59]

(b) until such time as the Authority is content that any action under subsection (3) has been completed to its satisfaction.[60]

(7) The Authority may disclose the circumstances surrounding a warning notice, to —

(a) an employer who currently employs a notified person;[61]

~~(b) a person who has received an employment application from a notified person and who, if successful in the application, would be required to be a director, key person or controller of a permitted person; or~~[62]

(b) a person who has received an employment application from a notified person who, if successful in the application, would be required to be –

(i) a director, key person or controller of a permitted person;

(ii) an actuary to an insurer or a director, company secretary, chief executive, controller, manager or principal control officer of a person to whom Part 7 of the *Insurance Act 2008* applies; or

(iii) an employee of a permitted person or a person to whom Part 7 (connected persons) of the *Insurance Act 2008* applies; or

(c) a company of which a notified person is, or is likely to become an officer.[63]

[Proviso repealed][64] [65]

~~(8) In subsection (7) —~~

~~"notified person" means a person to whom a notice under subsection (1) has been given that is still effective in accordance with subsection (6); and~~

~~"officer" means an officer of a company for the purposes of the *Company Officers (Disqualification) Act 2009* (see section 1(2) of that Act).~~[66]

(8) In subsection (7) –

"notified person" means a person to whom a notice under subsection (1) or (1A) has been given that is still effective in accordance with subsection (6);

"officer" means an officer of a company for the purposes of the *Company Officers (Disqualification) Act 2009* (see section 1(2) of that Act);

in paragraph (b)(ii), "actuary to an insurer", "director", "chief executive", "controller", "principal control officer" and "manager" have the meanings given in the *Insurance Act 2008*.

PART 4 – REGULATION AND SUPERVISION

12 Guidance

(1) The Authority may give guidance (including guidance which constitutes guidance or standards for the purposes of section 18(3) (the Rule Book) consisting of such information and advice as it considers appropriate —

(a) with respect to the operation of this Act and of any public document made under it;

(b) with respect to any matters relating to functions of the Authority;[67]

(c) for the purpose of meeting the regulatory objectives;

(d) with respect to any other matters about which it appears to the Authority to be desirable to give information or advice.[68] [69]

(2) The Authority may —

(a) publish its guidance; and

(b) offer copies of its published guidance for sale at a reasonable price.[70]

(3) A failure to comply with guidance issued under this section or under section 6(3) does not of itself –

(a) render a person liable in any civil or criminal proceedings; or

(b) establish a failure to comply with a relevant requirement of or under this Act.

(4) In determining whether a person has complied with a requirement of or under this Act or otherwise, guidance issued under this section or under section 6(3) —

(a) is admissible in evidence in civil and criminal proceedings; and

(b) may be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(5) A copy of any guidance issued under this section or under section 6(3), or any extract from it, certified in writing on behalf of the Authority to be an accurate copy of the guidance, is admissible in evidence in all legal proceedings as if it were the original and as evidence of any fact stated in it of which direct oral evidence would be admissible.

13 Public statements

(1) The Authority may issue a public statement concerning a person if the Authority has reasonable grounds to believe that the person is contravening, or has contravened —

(a) any provision of, or made under, this Act; or

(b) any condition, requirement or prohibition imposed, or any direction given, under or by virtue of this Act.[71]

(2) The Authority may issue a public statement concerning any person who it believes is or has been carrying on a regulated activity (whether in the Island or elsewhere) if it appears to the Authority to be desirable to make the statement for the protection of any person or class of persons.[72]

(3) If the Authority has made, varied or revoked a direction under section 10(1) or (2) or a prohibition under section 10A, the Authority may issue a public statement containing —

(a) such information about the person subject to the direction or prohibition as it believes appropriate in the circumstances; and

(b) such other information as it believes desirable in the public interest about the reasons for —

(i) giving the direction or imposing the prohibition; or

(ii) varying or revoking the direction or prohibition.[73]

~~(4) The Authority may issue a public statement concerning any matter relating to a regulated activity or persons carrying on a regulated activity in general or any class of a regulated activity or person carrying on a regulated activity where the Authority believes it to be desirable in the public interest to issue such a public statement.[74]~~

(4) The Authority may issue a public statement if it considers it to be desirable in the public interest to do so, concerning –

(a) any matter relating to a regulated activity or persons carrying on a regulated activity in general or any class of a regulated activity or person carrying on a regulated activity; or

(b) any other matter or persons relating to any of its functions under any enactment.

(5) Before issuing a public statement under this section, the Authority —

(a) where the statement is in respect of a licenceholder, shall send a copy of the proposed statement to the person concerned at the address stated in the register kept under section 35; or

(b) where the statement is in respect of any other person, shall send a copy of the proposed statement to the person concerned, at the last known address of that person,

together with a written notice of the reasons for the issue of the statement.[75]

(6) Except where the Authority is of the opinion that immediate action is necessary, the copy and notice under subsection (5) shall be sent not less than 7 days before issuing the public statement under this section.[76]

(7) The Authority shall not issue a public statement under this section in respect of a direction under section 10(1) or (2) or a prohibition under section 10A before the date on which the direction or prohibition takes effect.[77]

14 Directions

(1) The Authority may issue written directions under this section to —

(a) a permitted person; or

(b) a former permitted person.[78]

(2) A direction may —

(a) require the person to whom it is directed to take such action in respect of any regulated activity as is specified in the direction;

(b) impose such requirements as are necessary to secure that any regulated activity carried on by that person is in whole or in part suspended or discontinued; or

(c) where a person has surrendered, or intends to surrender, a licence, require the person to take such action as is necessary to secure that any regulated activity carried on by that person is in whole or in part discontinued and wound up,

and the directions shall include a statement of reasons for their issue.

(2A) The Authority may revoke or vary any directions under subsection (2) and the requirement in that subsection to give a statement of reasons applies to a variation as it applies to the issue of a direction.[79]

(3) If a person contravenes any direction under subsection (2), the Authority may undertake such action for a breach as is appropriate.[80]

15 Inspection and investigation

Schedule 2 (inspection and investigation) shall have effect.

~~16 Civil penalties~~

~~(1) If the Authority is satisfied that a permitted person —~~

~~(a) has contravened any provision of this Act;~~

~~(b) has contravened any prohibition or requirement imposed under this Act; or~~

~~(c) in purported compliance with any such requirement, has furnished the Authority with false, inaccurate or misleading information,~~[81]

~~it may require the permitted person to pay a penalty in respect of the contravention.~~[82]

~~(2) The Authority shall give written notice to the permitted person concerned of any decision under subsection (1), together with a statement of the reasons for the decision.~~[83]

~~(3) The Authority may not in respect of any such contravention —~~

~~(a) both require a person to pay a penalty under this section and revoke a licence issued under section 7 to carry on a regulated activity; or~~

~~(b) require a person to pay a penalty under this section if criminal proceedings have been commenced in respect of the contravention.~~[84]

~~(4) When setting the amount of a financial penalty, the Authority shall have regard to any regulations under subsection (5).~~[85]

~~(5) The Authority shall make such regulations as are necessary to give effect to this section with respect to —~~

~~(a) the imposition of financial penalties under this section; and~~

~~(b) the amount of those penalties.~~[86]

~~(6) Any amount received as a penalty shall be paid into and form part of the General Revenue of the Island.~~

16 Civil penalties

(1) If the Authority is satisfied that a person specified in regulations under subsection (7) —

(a) has contravened, or caused the contravention of, any provision of this Act;

(b) has contravened, or caused the contravention of, any prohibition or requirement imposed under this Act; or

(c) in purported compliance with any such requirement, has furnished the Authority with false, inaccurate or misleading information,

it may require the person to pay a financial penalty in respect of the contravention.

(2) The Authority must give written notice to the person concerned of any decision under subsection (1), together with a statement of the reasons for the decision.

(3) If the person does not appeal the decision of the Authority, the financial penalty must be paid within such period as may be specified in regulations under subsection (7).

(4) If the person appeals the decision of the Authority and on the determination of the appeal any amount of the financial penalty remains payable, that financial penalty must be paid within 14 days of the determination of the appeal.

(5) The Authority may not in respect of any such contravention —

(a) both require a person to pay a financial penalty under this section and revoke a licence issued under section 7; or

(b) require a person to pay a financial penalty under this section if criminal proceedings have been commenced in respect of the contravention.

(6) Despite subsection (5), the Authority may revoke a licence of a person under section 9 if the person has failed to pay a financial penalty within the time limit imposed on the person for that financial penalty to be paid.

(7) The Authority must make regulations —

(a) specifying the persons it may require to pay a financial penalty under subsection (1);

(b) specifying the maximum amount of financial penalty which the Authority may impose on a person under subsection (1);

(c) specifying the method of calculation of financial penalty it may impose in respect of a matter mentioned in subsection (1); and

(d) specifying any contravention under this Act in respect of which the power of the Authority to require payment of a financial penalty applies.

(8) Any amount received as a financial penalty shall be paid into and form part of the General Revenue of the Island.

(9) A financial penalty may be enforced as if it were a debt owed by the person on whom it was imposed to the Authority.

17 Auditors to report to Authority[87]

(1) If the auditor of a permitted person becomes aware of any matter which is such as to give the auditor reasonable cause to believe that —

(a) the permitted person may be in contravention of —

(i) this Act;

(ii) the Rule Book;

(iii) any condition imposed by or under section 7, 8 or 44(3); or

(iv) any direction or requirement imposed under this Act; and

(b) the matter is likely to be of material significance in relation to the Authority's functions under this Act,[88]

the auditor shall report such matter in writing to the Authority.[89]

(2) No statutory or other duty to which an auditor of a permitted person may be subject shall be regarded as contravened by reason of the auditor communicating in good faith to the Authority, whether or not in response to a request made by the Authority, any information or opinion under subsection (1).[90]

(3) This section applies to any matter of which the auditor becomes aware in the capacity of auditor and which relates to the business or affairs of the permitted person.

(4) For the purposes of this section, "auditor" shall be a person of such description as is specified in the Rule Book.

18 The Rule Book

(1) The Authority may make rules (in this Act referred to as "**the Rule Book**") concerning —

(a) licenceholders;

(b) regulated activities;

(c) the conduct of business by a licenceholder;

(d) the services and products provided by or on behalf of licenceholders;

(e) the relationship between licenceholders and their customers;

(f) the corporate governance and risk management of licenceholders;

(g) the accounts, accounting records and solvency of licenceholders; and

(h) the giving of full effect to the regulatory objectives and the functions of the Authority under this Act.[91] [92]

(2) The Authority may, on the application or with the consent of the licenceholder, direct that the whole of the Rule Book or any of its provisions —

(a) are not to apply to the licenceholder; or

(b) are to apply to that person with such modifications as may be specified in the direction.[93]

(3) In cases where a declaration under paragraph 3 of Schedule 3 applies in respect of a licenceholder, the Authority may, on the application or with the consent of that licenceholder, direct that the relevant rules, regulations, codes, guidance or standards that are the subject of the declaration shall apply to that person with such exceptions and modifications as may be specified in the direction.[94]

(4) Schedule 3 shall have effect to supplement subsection (1).

(5) Schedule 3 does not affect the generality of subsection (1).

19 The Rule Book - supplementary provisions

(1) If a licenceholder contravenes a requirement imposed by, or in accordance with, the Rule Book ("a relevant requirement"), the Authority may undertake action for a breach.[95]

(2) Contravention of a relevant requirement does not give rise to any right of action by any persons affected nor does it affect the validity of any transaction.[96]

(3) Where a person discloses information to another in compliance with the Rule Book the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise.

(4) A licenceholder shall not be treated as a director of a company for the purposes of the Companies Acts 1931 to 2004 or the *Companies Act 2006* by reason only that the licenceholder is required by the Rule Book to institute and operate systems and controls which are intended to ensure that employees, associates and agents who act as directors in the course of the business of the licenceholder carry out their duties in a diligent and proper manner.

PART 5 – SPECIAL REMEDIES

20 Injunctions, etc.

(1) If on the application of the Authority the High Court is satisfied —

(a) that there is a reasonable likelihood that any person will contravene any provision of —

(i) this Act;

(ii) any condition imposed under section 7, 8 or 44(2) and (3);

(iii) the Rule Book or any other public document under this Act;

(iv) any direction under section 10 or paragraph 2 of Schedule 2;

(v) any prohibition under section 10A; or[97]

(b) that any person has contravened any such provision and that there is a reasonable likelihood that the contravention will continue or be repeated; or

(c) that any person has contravened any such provision and that there are steps that could be taken for remedying the contravention,

the court may grant an injunction restraining the contravention or, as the case may be, make an order requiring that person and any other person who appears to the court to have been knowingly concerned in the contravention to take such steps as the court may direct to remedy it.[98]

(2) The court may, on the application of the Authority, make an order under subsection (1) if satisfied —

(a) that profits have accrued to any person as a result of that person's contravention of any provision mentioned in subsection (1)(a); or

(b) that one or more investors or customers have suffered loss or been otherwise adversely affected as a result of that contravention.[99] [100]

(3) The court may, under this subsection, order the person concerned to pay into court, or appoint a receiver to recover from that person, such sum as appears to the court to be just having regard —

(a) in a case within subsection (2)(a), to the profits appearing to the court to have accrued;

(b) in a case within subsection (2)(b), to the extent of the loss or other adverse effect; or

(c) in a case within both paragraphs (a) and (b) of subsection (2), to the profits and to the extent of the loss or other adverse effect.

(4) Any amount paid into court by or recovered from a person in pursuance of an order under subsection (3) shall be paid out to such person or distributed among such persons as the court may direct, being a person or persons appearing to the court to have entered into transactions with that person as a result of which the profits mentioned in subsection (2)(a) have accrued to that person or the loss or adverse effect mentioned in subsection (2)(b) has been suffered.

(5) On an application under subsection (2) the court may require the person concerned to furnish it with such accounts or other information as it may require for establishing whether any and, if so, what profits have accrued to that person as mentioned in subsection (2)(a) and for determining how any amounts are to be paid or distributed under subsection (4); and the court may require any such amounts or other information to be verified in such manner as it may direct.

(6) Nothing in this section affects the right of any person other than the Authority to bring proceedings in respect of the matters to which this section applies.[101]

21 Appointment of receiver

(1) The Authority may present a petition to the High Court for the appointment of a receiver under section 42 of the *High Court Act 1991* in respect of the affairs, business and property of a permitted person.[102]

(2) If the High Court is satisfied that —

(a) the appointment is in the public interest;

(b) the appointment is necessary to protect the interests of customers, creditors or others who have or have had dealings with the permitted person; or

(c) the appointment is necessary for the orderly winding up of the regulated activity undertaken by the permitted person; or

(d) the appointment is necessary so that the affairs, business and property relating to the former regulated activity undertaken by a person may be settled or disposed of in an orderly manner,

it may appoint a suitable person as receiver.

(3) On the presentation or hearing of a petition the Court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order that it thinks fit.

(4) Without prejudice to the generality of subsection (3), an interim order under that subsection may be made ex parte and may restrict (whether by reference to the consent of the Court or otherwise) the exercise of any powers of —

(a) the permitted person; or

(b) if the permitted person is a body corporate, its directors,

in respect of the affairs, business and property of the regulated activity of the permitted person.

(5) This section is without prejudice to the generality of the jurisdiction of the High Court under section 42 of the *High Court Act 1991*, or under any other enactment or at common law.

22 Appointment of business manager

(1) The Authority may, by order, prescribe circumstances in which the Authority may apply to the High Court for the appointment by the Court of a person as a manager to manage the affairs of persons in so far as those affairs relate to the carrying on of a regulated activity.[103]

(2) An order made under subsection (1) may contain such incidental or supplementary provisions as the Authority considers necessary or expedient, and may contain different provisions for different types of regulated activity.[104]

(3) The Court may, on an application made to it by the Authority in circumstances prescribed in an order made under subsection (1), appoint, on such terms as it considers to be appropriate, a person to manage the affairs of a person in so far as those affairs relate to the carrying on of a regulated activity.[105]

(4) The Court may make such orders as are necessary to give effect to the appointment of a manager under this section and for dealing with any property connected with the regulated activity.

23 Appointment of reporting accountants, etc

(1) The Authority may by notice in writing served on a permitted person require the person to provide the Authority with a report by an accountant or other person with relevant professional skill on, or on any aspect of, any matter relating to the affairs of the permitted person.[106]

(2) A notice under subsection (1) shall be accompanied by or include a written statement of the reasons for the decision.

(3) The accountant or other person appointed by a permitted person to make any report required under subsection (1) shall be a person nominated or approved by the Authority; and the Authority may require the report to be in such form as is specified in the notice.[107]

(4) If it appears to the Authority to be desirable in the interests of the customers or potential customers of a permitted person to do so, it may also exercise the powers conferred by subsection (1) —

(a) in relation to any body corporate which is or has at any relevant time been —

(i) a holding company, subsidiary or related company of that person;

(ii) a subsidiary of a holding company of that person;

(iii) a holding company of a subsidiary of that person; or

(iv) a body corporate in the case of which a shareholder controller of that permitted person, either alone or with any associate or associates, holds 50% or more of the shares or is entitled to exercise, or control the exercise of, more than 50%, of the voting power at a general meeting; or

(b) in relation to any partnership of which that permitted person is or has at any relevant time been a member.[108]

(5) If it appears to the Authority to be desirable to do so in the interests of the customers or potential customers of a permitted person which is a partnership (in this section referred to as "the licensed partnership") it may also exercise the powers conferred by subsection (1) in relation to —

(a) any other partnership having a member in common with the licensed partnership;

(b) any body corporate which is or has at any relevant time been a member of the licensed partnership;

(c) any body corporate in the case of which the partners in the licensed partnership, either alone or with any associate or associates, holds 50% or more of the shares or are entitled to exercise, or control the exercise of, more than 50% of the voting power at a general meeting or meeting of the board of directors; or

(d) any subsidiary or holding company of any such body corporate as is mentioned in paragraph (b) or (c) or any holding company of any such subsidiary.[109]

(6) The provisions of this section shall apply to a former permitted person as they apply to a permitted person.

(7) The costs and expenses of and relating to a report under this section shall be paid by the permitted person concerned.

(8) No statutory or other duty to which a reporting accountant or person may be subject shall be regarded as contravened by reason of the reporting accountant or person communicating in good faith to the Authority any information or opinion under subsection (1).[110]

(9) This section applies to any matter of which the reporting accountant or person becomes aware in the capacity of reporting accountant or person making a report under subsection (1) and which relates to the business or affairs of the relevant permitted person.

(10) If a permitted person is in breach of a notice under subsection (1) the Authority may undertake such action for a breach as is appropriate.[111]

23A Payments of persons appointed under section 21, 22 or 23

(1) This section applies where –

(a) a person ("appointee") has been appointed under section 21, 22 or 23; and

(b) the Authority or the appointee considers that the circumstances are such that the appointee may not recover its costs or expenses for its work conducted in pursuance of its appointment –

(i) from the permitted person or from the liquidated assets of that person, in the case of an appointment under section 21;

(ii) from the person whose affairs are managed by the appointee, in the case of an appointment under section 22; or

(iii) from the permitted person or a person referred to in section 23(4), (5) or (6), in the case of an appointment under section 23 (despite the requirement in section 23(7)).

(2) Where this section applies, the Authority may guarantee to pay the amount of the costs or expenses of the appointee, or such amount of the costs or expenses of the appointee, as the Authority considers to be reasonable in all the circumstances.

(3) If the Authority pays the costs or expenses of the appointee under subsection (2), the Authority may direct the person in respect of whom the costs or expenses have accrued to reimburse the Authority immediately or by instalments.

PART 6 – MEDIATION, COMPENSATION AND CONTRACTS

24 Mediation and adjudication in financial services disputes

Schedule 4 shall have effect with respect to mediation and adjudication in financial services disputes and payment service disputes.[112]

25 Compensation schemes

(1) The Treasury may make regulations establishing a scheme for compensating investors and depositors in cases where persons who are or have been —

(a) licenceholders;

(b) the holders of licences under any Act repealed by this Act;

(c) the holders of licences under section 3 of the *Banking Act 1975*,

are unable or likely to be unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their business.

(2) Without prejudice to the generality of subsection (1), regulations under this section may —

(a) provide for the administration of the scheme and the determination and regulation of any matter relating to its operation by such body as appears to the Treasury to be appropriate;

(aa) permit a body referred to in paragraph (a) to delegate to such persons it considers appropriate a matter which the body administers, determines or regulates under regulations made under this section;

(b) establish a fund out of which compensation is to be paid;

(c) provide for the levying of contributions from, or from any class of, the persons referred to in paragraphs (a) to (c) of subsection (1) and otherwise for financing the scheme and for the payment of contributions and other money into the fund;

(ca) require a person referred to in paragraphs (a) to (c) of subsection (1) to submit to the Treasury, a body referred to in paragraph (a) or person referred to in paragraph (aa) such information, or give access to such information, as the Treasury or that body or person may reasonably require for the purpose of administering the scheme;

(cb) provide for payments that must be paid by a person referred to in paragraphs (a) to (c) of subsection (1) to the Treasury or that body or person for the Treasury's provision of software and for administering the scheme generally.

(d) specify the terms and conditions on which, and the extent to which, compensation is to be payable and any circumstances in which the right to compensation is to be excluded or modified;

(e) provide for treating compensation payable under the scheme in respect of a claim against any person as extinguishing or reducing the liability of that person in respect of the claim and for conferring on the body administering the scheme a right of recovery against that person, being, in the event of that person's insolvency, a right not exceeding such right, if any, as the claimant would have had in that event;

(f) contain incidental and supplementary provisions; and

(g) contain transitional provisions, and in particular may provide that rights and liabilities under any existing non-statutory compensation scheme shall be treated as rights and liabilities of the scheme established under the regulations.

(3) Regulations may be made for the purpose of integrating any procedure for which provision is made by virtue of subsection (2)(e) into the general procedure on a winding-up or bankruptcy and may modify the enactments relating to such procedure for that purpose.

(4) The information referred to in subsection (2)(ca) includes information about the accounts of the investors and depositors of a person referred to in paragraphs (a) to (c) of subsection (1) that may be provided to the Treasury, or a body referred to in paragraph (a) or person referred to in paragraph (aa), before the commencement of the administration of the scheme.

26 Actions for damages

(1) Without prejudice to section 16, a contravention of any conditions imposed under section 7, 8 or 44(2) and (3) shall be actionable at the suit of a person who suffers loss as a result of the contravention subject to the defences and other incidents applying to actions for breach of statutory duty.

(2) Subsection (1) does not apply to —

(a) a contravention of conditions imposed in connection with the financial resources of a licenceholder; or

(b) a contravention of the Rule Book except where compliance is imposed as a condition under section 7, 8 or 44(2) and (3).

(3) No contravention to which subsection (1) applies shall invalidate any transaction.

(4) No action in respect of a contravention to which this section applies shall lie at the suit of such persons or classes of persons as are prescribed in an order by the Authority for this purpose.

27 Agreements made by unlicensed, etc persons

[P2000/8/26]

(1) An agreement made by a person in the course of carrying on a regulated activity in contravention of the general prohibition in section 4(1)(a) is unenforceable against the other party.

(2) The other party is entitled to recover —

(a) any money or other property paid or transferred by that party under the agreement; and

(b) compensation for any loss sustained by that party as a result of having parted with it.

(3) "Agreement" means an agreement —

(a) made after this section comes into operation; and

(b) the making or performance of which constitutes, or is part of, the regulated activity in question.

(4) This section does not apply if the regulated activity is a financial services activity within the meaning of section 3(2)(d) or (e).

28 Agreements made through unlicensed, etc persons

[P2000/8/27]

(1) An agreement made by a permitted person ("the provider") —

(a) in the course of carrying on a regulated activity (not in contravention of the general prohibition in section 4(1)(a), but

(b) in consequence of something said or done by another person ("the third party") in the course of a regulated activity carried on by the third party in contravention of that general prohibition,

is unenforceable against the other party.

(2) The other party is entitled to recover —

(a) any money or other property paid or transferred by the other party under the agreement; and

(b) compensation for any loss sustained by the other party as a result of having parted with it.

(3) "Agreement" means an agreement —

(a) made after this section comes into operation; and

(b) the making or performance of which constitutes, or is part of, the regulated activity in question carried on by the provider.

(4) This section does not apply if the regulated activity is a financial services activity within the meaning of section 3(2)(d) or (e).

29 Agreements made unenforceable by section 27 or 28

[P2000/8/28]

(1) This section applies to an agreement which is unenforceable because of section 27 or 28.

(2) The amount of compensation recoverable as a result of that section is —

(a) the amount agreed by the parties; or

(b) on the application of either party, the amount determined by the High Court.

(3) If the High Court is satisfied that it is just and equitable in the circumstances of the case, it may allow —

(a) the agreement to be enforced; or

(b) money and property paid or transferred under the agreement to be retained.

(4) In considering whether to allow the agreement to be enforced or (as the case may be) the money or property paid or transferred under the agreement to be retained the High Court must —

(a) if the case arises as a result of section 27, have regard to the issue mentioned in subsection (5); or

(b) if the case arises as a result of section 28, have regard to the issue mentioned in subsection (6).

(5) The issue is whether the person carrying on the regulated activity concerned reasonably believed that that person was not contravening the general prohibition in section 4(1)(a) by making the agreement.

(6) The issue is whether the provider knew that the third party was (in carrying on the regulated activity) contravening that general prohibition.

(7) If the person against whom the agreement is unenforceable —

(a) elects not to perform the agreement, or

(b) as a result of this section, recovers money paid or other property transferred by that person under the agreement,

that person must repay any money and return any other property received under the agreement.

(8) If property transferred under the agreement has passed to a third party, a reference in section 27 or 28 or this section to that property is to be read as a reference to its value at the time of its transfer under the agreement.

(9) The commission of an offence other than a contravention of the general prohibition under section 4(1)(a) does not make the agreement concerned illegal or invalid to any greater extent than is provided by section 27 or 28.

29A Liability in respect of trusts

No contract, act (including omission) or proceeding of, or on behalf of, a trust or its trustees shall be called into question nor treated as illegal, invalid or unenforceable by reason only that a provider of corporate services or trust services undertook any regulated activity for or in respect of the trust or trustees in contravention of section 4 of this Act and no right of action shall arise in civil proceedings against the trust or trustees (other than the provider of corporate services or trust services) by reason only of that contravention.

PART 7 – SUPPLEMENTARY

CHAPTER I

General

30 Publication of information

(1) The Authority may publish, or arrange for the publication of, information in such form and manner as it considers appropriate with respect to —

(a) the operation of this Act or the *Collective Investment Schemes Act 2008* and any public document made under them, including in particular the rights of customers, the duties of licenceholders and the steps to be taken for enforcing those rights or complying with those duties;[113]

(b) any matter relating to the functions of the Authority under any enactment;[114]

(c) any other matters about which it appears to it to be desirable in the public interest to publish information.[115]

(2) The Authority may offer for sale copies of information published under this section and may, if it thinks fit, make a reasonable charge for advice given under this section at any person's request.[116]

(3) This section shall not be construed as authorising the disclosure of restricted information within the meaning of paragraph 1 of Schedule 5 in any case in which it could not be disclosed apart from the provisions of this section.

31 Restrictions on disclosure of information

Schedule 5 (restrictions on the disclosure of information) shall have effect.

31A Freedom of Information Act 2015

Where the disclosure of information is prohibited by this Act, that information is absolutely exempt information for the purposes of section 27 of the *Freedom of Information Act 2015* (information the disclosure of which is restricted by law).

32 Appeals to the Financial Services Tribunal

(1) There shall be a tribunal known as the Financial Services Tribunal (in this Act referred to as "**the Tribunal**") for the purposes of this Act and any other enactment in which an appeal lies to the Tribunal.[117]

(2) The Tribunal shall consist of —

(a) a chairman appointed in accordance with the *Tribunals Act 2006*; and

(b) 2 members selected in accordance with regulations made under section 9(b) of the *Tribunals Act 2006*, from a panel appointed in accordance with that Act.

(3) A person aggrieved may appeal, in accordance with rules made under section 8 of the *Tribunals Act 2006*, against any decision of the Authority specified in column 1 of the Table below which is made under the provision specified in column 2.[118]

Decision	Provision
The issue of a licence subject to conditions	Section 7(1)(b)
The refusal to issue a licence	Section 7(1)(c)
The imposition of conditions, or further conditions upon a licence	Section 8(1)(a)
The variation or revocation of, or refusal to vary any condition attached to a licence	Section 8(1)(b)
The suspension of a licence	Section 9(1)
The revocation of a licence	Section 9(1)
The issue or variation of, or refusal to vary or revoke a direction	Section 10
The imposition of a prohibition	Section 10A
The variation or refusal to vary a prohibition	Section 10C
The refusal to revoke a prohibition	Section 10C
The giving of a warning notice, or the terms of such a notice	Section 11
The issue or variation of, or refusal to vary or revoke, a direction	Section 14
The imposition of a penalty	Section 16
The withdrawal of an exemption	Regulations under section 44(3)(b)
~~The issue of a direction~~	~~Paragraph 2 of Schedule 2.~~[119]

(4) On the determination of an appeal under this section the Tribunal shall confirm, vary or revoke the decision in question.

(5) Any variation or revocation of a decision shall not affect the previous operation of that decision or anything duly done or suffered under it.

(6) Without prejudice to subsection (7), any decision of the Tribunal on an appeal under this section shall be binding on the Authority and the applicant.[120]

(7) An appeal shall lie to the High Court, in accordance with rules of court, on a question of law from any decision of the Tribunal.

33 Statutory indemnity[121]

(1) This section applies in respect of any act or matter done or omitted to be done —

(a) in the exercise, or purported exercise, of the Authority's functions; or

(b) in the exercise, or purported exercise, of the functions conferred by or under a specified enactment or any orders, regulations, Rule Books or binding guidance made under such an enactment; or

(c) in the implementation, or purported implementation, of a mutual assistance agreement under section 34.

(2) None of the persons listed in subsection (3) shall be liable in damages for, or in respect of, any act or omission unless the act or omission is shown to have been in bad faith.

(3) The persons are —

(a) the Authority;

(b) any member, officer or employee of the Authority;

(c) a designated body;

(d) any officer, member or employee of a designated body;

(e) any other person acting on behalf of the Authority or a designated body;

(f) any person acting pursuant to any authority conferred by the Authority or a designated body.

(4) Subsection (2) does not apply so as to prevent the award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 2001 (acts of public authorities).

(5) In this section —

"designated body" means —

(a) the Treasury;

(b) a body administering a scheme under section 25 of this Act or section 43 of the *Insurance Act 2008*;

(c) a regulatory authority which is designated by regulations made by the Authority;

(d) the Isle of Man Office of Fair Trading or an ~~adjudicator~~ ombudsman to whom a dispute has been referred to under Schedule 4;

(e) [Repealed][122]

(f) [Repealed][123]

(g) the ~~Financial Services Tribunal~~ Tribunal;

(h) [Repealed][124]

"specified enactment" means —

(a) this Act;

(b) the Companies Acts 1931 to 2004;

(ba) the *Bank (Recovery and Resolution) Act 2020*;

(c) the Industrial and Building Societies Acts 1892 to 1993;

(d) the *Collective Investment Schemes Act 2008*;

(e) the *Companies Act 2006*;

(f) the *Company Officers (Disqualification) Act 2009*;

(g) the *Insider Dealing Act 1998*;

(h) the *Life Assurance (Insurable Interest) Act 2004*;

(i) the *Incorporated Cell Companies Act 2010*;

(j) the *Foundations Act 2011*;

(k) the *Insurance Act 2008*;

(l) the *Retirement Benefits Schemes Act 2000*;

(m) the *Companies (Transfer of Domicile) Act 1998*;

(n) the *Insurance Companies (Amalgamations) Act 2006*;

(o) the *Terrorism and Other Crime (Financial Restrictions) Act 2014*;

(p) the *Designated Businesses (Registration and Oversight) Act 2015*;

(q) the *Payment Services Act 2015*.

(6) This section does not prejudice the generality of paragraph 6 of Schedule 1 to the *Government Departments Act 1987* nor paragraph 11 of Schedule 2 to the *Statutory Boards Act 1987*.[125]

34 Mutual assistance

(1) Subject to subsection (2), the Authority may, in relation to functions conferred on the Authority under an enactment, enter into mutual assistance agreements with any regulatory authority.[126]

(2) The powers conferred on the Authority by Schedule 2 may, without prejudice to their generality, be exercised for the purpose of assisting any such authority in the exercise of its functions.[127]

(3) At the request of a regulatory authority, the Authority may investigate any circumstances referred to in the request and for that purpose, the powers conferred on the Authority by Schedule 2 may, without prejudice to their generality, be exercised for the purpose of assisting the requesting authority in the exercise of its functions.[128]

(4) Subsections (1) to (3) shall not permit the disclosure of any information relating to the affairs of a customer otherwise than in accordance with Schedule 5.

35 Registers

~~(1) The Authority shall keep a register of —~~

~~(a) former and current licenceholders; and~~

~~(b) classes of persons who are exempt from any provision of this Act under section 44(2),~~

~~and in this Act such persons are referred to collectively as "**permitted persons**".[129]~~

(1) The Authority must keep a register of former licenceholders and current licenceholders.

(1A) A former licenceholder must remain on the register for 15 years after ceasing to be a licenceholder.

(2) [Repealed][130]

(3) The registers to be kept under this section —

(a) shall contain such information; and

(b) shall be available for public inspection at such times, in such manner and by such means,

as may be prescribed in regulations made under section 44.

CHAPTER II

Offences, etc

36 Fraudulent inducement to make a deposit

(1) Any person ("A") who —

(a) makes a statement, promise or forecast which A knows to be misleading, false or deceptive; or

(b) dishonestly conceals any material facts; or

(c) recklessly makes (dishonestly or otherwise) a statement, promise or forecast which is misleading, false or deceptive, is guilty of an offence if A makes the statement, promise or forecast or conceals the facts for the purpose of inducing, or is reckless as to whether it may induce, another person (whether or not the person to whom the statement, promise or forecast is made or from whom the facts are concealed) —

(i) to make, or refrain from making, a deposit with A or any other person; or

(ii) to enter, or refrain from entering, into an agreement for the purpose of making such a deposit.

(2) Subsection (1) does not apply unless —

(a) the statement, promise or forecast is made in or from, or the facts are concealed in or from, the Island or arrangements are made in or from the Island for the statement, promise or forecast to be made or the facts to be concealed; or

(b) the deposit is or would be made, or the agreement is or would be entered into, in or from the Island.

37 Misleading statements, etc.

(1) A person ("A") who —

(a) makes a statement, promise or forecast which A knows to be misleading, false or deceptive; or

(b) dishonestly conceals any material facts; or

(c) recklessly makes (dishonestly or otherwise) a statement, promise or forecast which is misleading, false or deceptive,

is guilty of an offence if A makes the statement, promise or forecast or conceals the facts for the purpose of inducing, or is reckless as to whether it may induce, another person (whether or not the person to whom the statement, promise or forecast is made or from whom the facts are concealed) —

(i) to enter or offer to enter into, or to refrain from entering or offering to enter into, an investment agreement; or

(ii) to exercise, or refrain from exercising, any rights conferred by an investment.

(2) Subsection (1) does not apply unless —

(a) the statement, promise or forecast is made in or from, or the facts are concealed in or from, the Island; or

(b) the agreement is or would be entered into or the rights are or would be exercised in the Island.

(3) **"Investment agreement"** means any agreement the making or performance of which by either party constitutes an activity of a

description as is defined for the purposes of this definition in an order under section 3.

38 Misleading practices

(1) A person ("A") who does any act or engages in any course of conduct which creates a false or misleading impression as to the market in or the price or value of any investments is guilty of an offence if A does so for the purpose of creating that impression and of thereby inducing another person to acquire, dispose of, subscribe for or underwrite those investments or to refrain from doing so or to exercise, or refrain from exercising, any rights conferred by those investments.

(2) In proceedings brought against A for an offence under subsection (1) it shall be a defence for A to prove that A reasonably believed that A's act or conduct would not create an impression that was false or misleading as to the matters mentioned in that subsection.

(3) Subsection (1) does not apply unless —

(a) the course of conduct is engaged in, or the act is done, in the Island; or

(b) the false or misleading impression is created there.

39 Falsification of documents, etc. relevant to an investigation

If a person —

(a) knows or suspects that an investigation by the Authority is being or is likely to be carried out; and[131]

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which that person knows or suspects are or would be relevant to such an investigation,

that person is guilty of an offence unless it is proved that there was no intention of concealing the facts disclosed by the documents from persons carrying out such an investigation.

40 Offences in connection with information[132]

(1) A person ("A") who —

(a) furnishes or sends to the Authority for any purpose under this Act a document which A knows to be false or misleading in a material particular; or[133]

(b) recklessly furnishes or sends to the Authority for the purposes of this Act a document which is false or misleading in a material particular; or[134]

(c) in furnishing information to the Authority for the purposes of this Act —

(i) makes a statement which A knows to be false or misleading in a material particular; or

(ii) recklessly makes a statement which is false or misleading in a material particular,[135]

is guilty of an offence.

(2) A person who, without reasonable excuse, fails to furnish information which that person is required to furnish to the Authority under this Act, is guilty of an offence.[136]

(2A) A person who, without reasonable excuse, contravenes any direction under paragraph 2(3) of Schedule 2 is guilty of an offence.

(3) A person is not under an obligation under this Act to disclose any information subject to legal privilege within the meaning of section 13 (meaning of "items subject to legal privilege") of the *Police Powers and Procedures Act 1998*.[137]

41 Offences and penalties

(1) A person who contravenes section 4 is guilty of an offence and is liable —

(a) on summary conviction, to a fine not exceeding £5,000 or to a term of custody not exceeding 6 months, or to both;

(b) on conviction on information, to a fine or to a term of custody not exceeding 2 years, or to both.[138]

(2) Any person who contravenes section 10(7) or (8) or section 10A(5) or (6) is guilty of an offence and is liable on summary conviction to a fine not exceeding £5,000 or to a term of custody for a period not exceeding 6 months, or to both.[139]

(3) A person guilty of an offence under any of section 36 to 39 is liable —

(a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;

(b) on conviction on information to a fine or to custody for a term not exceeding 5 years, or to both.

(4) A person guilty of an offence under section 40 or paragraph 1(4) or 3(8) of Schedule 2 is liable —

(a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;

(b) on conviction on information to a fine or to custody for a term not exceeding 2 years, or to both.

(5) Any person who is guilty of an offence under paragraph 11(2) of Schedule 4 or paragraph 1(5) of Schedule 5 is liable on summary conviction to a fine

not exceeding £5,000 or to a term of custody for a period not exceeding 6 months, or to both.

(6) Criminal proceedings in respect of any contravention of this Act may not be commenced or continued if the Authority has required a person to pay a penalty under section 16 in respect of such contravention.[140]

(7) No proceedings for an offence under this Act shall be commenced in the Island except by the Authority or by or with the consent of the Attorney General.[141]

(8) Any document purporting to be the consent of the Attorney General for the commencement of proceedings for an offence under this Act and to be signed by the Attorney General shall be admissible as prima facie evidence without further proof.

42 Offences by bodies corporate

(1) Subsections (2) to (4) apply where an offence under this Act is committed by a body corporate and it is proved that the offence —

(a) was committed with the consent or connivance of an officer of the body; or

(b) was attributable to neglect on the part of an officer of the body.

(2) The officer, as well as the body, shall be guilty of the offence.

(3) Where an individual is convicted of an offence under this Act by virtue of subsection (2), that individual shall be liable to the same penalty as the body.

(4) In this section "officer" has the meaning assigned by section 1(2) (disqualification orders: introduction) of the *Company Officers (Disqualification) Act 2009*.[142]

PART 8 – GENERAL

43 Contravention of statutory provisions

~~If a licence holder contravenes any statutory provision (other than one contained in or under this Act) the Authority may exercise any power that is an action for a breach but with the exception of the powers to —~~

~~(a) impose a penalty under section 16;~~

~~(b) apply for an injunction or for restitution under section 20.~~[143]

(1) If a licenceholder contravenes any statutory provision of or under this Act, the Authority may exercise any power under this Act to address the contravention as the Authority considers appropriate in the circumstances.

(2) If a licenceholder contravenes any statutory provision, other than one contained in or under this Act, the Authority may exercise any power under this Act to address the contravention as the Authority considers appropriate with the exception of powers to –

(a) impose a financial penalty under section 16;

(b) apply for an injunction or for restitution under section 20.

44 Subordinate legislation

(1) The Authority may make such regulations as are necessary to give effect to this Act.[144]

(2) Without prejudice to the generality of subsection (1), the Authority may by regulations exempt any person or class of persons from any of the provisions of this Act.[145]

(3) Without prejudice to Part 5 of the *Interpretation Act 2015* (functions and powers) or to any other provision of this Act, regulations under subsection (2) may provide for —

(a) conditions subject to which the exemption shall operate;

(b) circumstances in which the Authority may withdraw the exemption from a person;[146]

(c) the exemption to operate in respect of some or all regulated activities.[147]

(4) If a person contravenes any condition imposed by regulations under this section, the Authority may undertake action for a breach.[148]

(5) Before making any order, regulations or the Rule Book under this Act, the Authority shall consult —

(a) the Treasury;

(b) such persons or bodies as appear to be representative of interests likely to be affected; and

(c) such other persons or bodies as the Authority may determine.[149] [150]

(6) The Treasury may by order add to or amend the definition of "financial services activity" in section 3.

(7) Before making any order under this Act (other than an order appointing a day for the commencement of any provision of this Act) the Treasury shall consult —

(a) the Authority;[151]

(b) such persons or bodies as appear to be representative of interests likely to be affected; and

(c) such other persons or bodies as the Treasury may determine.

45 Tynwald procedure

(1) Subject to subsection (2), ~~regulations,~~ regulations or rules (except those referred to in subsection (4)) and the Rule Book made under this Act shall be laid before Tynwald as soon as practicable after they are made and if Tynwald at the sitting at which they are laid, or at the next following sitting, fails to approve them they shall cease to have effect.

(2) Regulations under section ~~16(5) or 44(2) or an order under paragraph 2(10) of Schedule 5~~ 16(7) or 44(2) shall not have effect unless they are approved by Tynwald.

(3) Any order under this Act (other than an order referred to in subsection (4) or (5) or an order appointing a day for the commencement of any provision of this Act) shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve it, the order shall cease to have effect.

(4) Any order under paragraph 4(4) or 12 of Schedule 4 and any rule under paragraph 5(2) of that Schedule shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting resolves that it shall be annulled, it shall cease to have effect.

(5) An order made under paragraph 2(10) of Schedule 5 shall not have effect unless it is approved by Tynwald.

46 Fees

(1) The Authority may by order prescribe the fees which shall be paid —

(a) on the making of an application for the issue of a licence;

(b) on the making of any application or notification in respect of any matter arising under or relating to this Act or a licence;

(c) on any amendment of a licence;

(d) by each licenceholder annually on such date as may be prescribed.[152]

(2) The Authority may by order prescribe in connection with the discharge of any other of its functions under this Act such amount as the Authority considers is reasonable to cover the cost of discharging the function (including a reasonable proportion of the Authority's administrative and overhead expenses).

47 Gaming contracts

(1) For the avoidance of doubt, no contract to which this section applies shall be void or unenforceable by reason of section 40 of the *Gaming, Betting and Lotteries Act 1988*.

(2) This section applies to any contract entered into by either or each party by way of business and the making or performance of which by either party constitutes a regulated activity.

48 Interpretation

(1) In this Act —

"**advertisement**" includes every form of advertising and includes advertising —

(a) in any form of publication;

(b) by the display of notices;

(c) by means of circulars or other documents;

(d) by means of business cards;

(e) by an exhibition of photographs or cinematograph films; or

(f) by means of broadcasting sounds or pictures (including transmission by cable), electronic communications or any electronic media;[153]

"**AML/CFT legislation**" has the same meaning (for the time being) as in section 3(2) (interpretation) of the *Designated Businesses (Registration and Oversight) Act 2015*;[154]

~~"**associate**" means —~~

~~(a) in relation to any individual —~~

~~(i) the father, mother, spouse, civil partner, son, stepson, daughter, stepdaughter, brother or sister of the individual;[155]~~

~~(ii) any body corporate of which that individual is a director; and~~

~~(iii) a partner or employee of that individual;~~

~~(b) in relation to a body corporate —~~

~~(i) any subsidiary of that body corporate; and~~

~~(ii) any employee of any such subsidiary;~~

"**associate**" means —

(a) in relation to any individual —

(i) the parent, spouse, civil partner, child, stepchild or sibling of the individual;

(ii) any body corporate of which that individual is a director; or

(iii) a partner or employee of that individual;

(b) in relation to a body corporate —

(i) any director or employee of that body;

(ii) any subsidiary of that body;

(iii) any holding company of that body;

(iv) any subsidiary of that holding company;

(v) any director of any such holding company or subsidiary;

(c) in relation to an individual or a body corporate, any person with whom the individual or body corporate has an agreement, arrangement or other obligation —

(i) in respect of the acquisition, holding or disposal of shares or other interests in a body corporate; or

(ii) to act together in exercising voting power with respect to such a body corporate;

"**the Authority**" has the meaning given by section 1(1);[156]

"**body corporate**" includes a limited liability company constituted under the *Limited Liability Companies Act 1996*;

"**building society**" has the meaning given in section 7 of the *Industrial and Building Societies Act 1892*;

"**chief executive**" means an individual who is employed by the licenceholder and who either alone or jointly with others is or will be responsible under the immediate authority of the directors for the conduct of its business;

"**the Commission**" [Repealed][157]

"**conditions**" includes restrictions;

"**controller**" means —

(a) a managing director of a body corporate of which the licenceholder is a subsidiary;

(b) a chief executive of a body corporate of which the licenceholder is a subsidiary;

(c) a person in accordance with whose directions or instructions one or more of the directors of a body corporate of which the licenceholder is a subsidiary are accustomed to act unless the director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity;

(d) a person who either alone or with any associate or associates is entitled to exercise or control the exercise of 15% or more of the voting power at any general meeting of the licenceholder or of another body corporate of which it is a subsidiary;[158]

(e) a person who either alone or with any associate or associates is able to exercise a significant influence over the management of the licenceholder or of another body corporate of which the licenceholder is a subsidiary by virtue of —

(i) a holding of shares in; or

(ii) an entitlement to exercise, or control the exercise of, the voting power of,

the licenceholder or other body corporate of which the licenceholder is a subsidiary; or

(f) a person who has the power to appoint directors to the board or other executive committees of the licenceholder or other body corporate of which the licenceholder is a subsidiary and to remove them;

"**crime**" means any conduct which —

(a) constitutes one or more criminal offences (whether under the law of the Island or of any country or territory outside the Island); or

(b) is, or corresponds to, any conduct which, if it all took place in the Island, would constitute one or more criminal offences;

"**director**" includes —

(a) any person occupying the position of director by whatever name called;

(b) any person in accordance with whose directions or instructions one or more of the appointed directors are accustomed to act unless the appointed director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity; and

(c) in relation to a limited liability company constituted under the *Limited Liability Companies Act 1996*, a member, the company's manager and the registered agent;

(d) in respect of any other body corporate such persons as occupy a position equivalent to that of director;

(e) in relation to a foundation within the meaning of the *Foundations Act 2011*, a member of the council of the foundation;[159]

"**documents**" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"**financial crime**" includes any crime involving —

(a) fraud or dishonesty;

(b) misconduct in, or misuse of information relating to, a financial market; or

(c) handling the proceeds of crime or funds connected with terrorism;

"**former business**" means business undertaken when a person was the holder of a licence;

"**group**", in relation to a company, means that company, any other company which is its holding company or subsidiary and any other company which is a subsidiary of that holding company;

"**holding company**" shall be construed in accordance with the definition of subsidiary;

"**key person**" means —

(a) such persons as appear to the Authority to have significant powers or responsibilities with respect to any regulated activity undertaken or intended to be undertaken by a permitted person or an applicant to be a licenceholder;[160]

(b) such persons as a licenceholder or an applicant to be a licenceholder arranges or intends to arrange to be officers of a body corporate;

(c) such persons as a licenceholder or an applicant to be a licenceholder arranges to be officers of a body corporate that is itself a director of another body corporate;

(d) such persons as a licenceholder or an applicant to be a licenceholder arranges to be the trustees of a trust;

"**licence**" means a licence issued under section 7;

"**licenceholder**" has the meaning given by section 7(7),

"**partnership**" has the same meaning as in the *Partnership Act 1909* and includes similar relationships formed outside the Island;

~~"**permitted person**" has the meaning given by section 35(1);~~

"**permitted person**" means —

(a) a current licenceholder;

(b) a former licenceholder; or

(c) a person who is exempt from any provision of this Act under section 44(2);

"**person**" includes any body of persons, corporate or unincorporate;[161]

"**policyholder**" has the meaning given in section 54(1) of the *Insurance Act 2008*;[162]

"**regulated activity**" has the meaning given by section 3(1);

"**regulatory authority**" means any authority whether a governmental or private body and whether established in the Island or elsewhere —

(a) which has functions similar to those of the Authority under this Act or any other enactment;[163]

(b) which regulates or supervises the practice of any profession;

(c) which regulates or supervises the carrying on of any business or activity in, or connected with, the financial services industry;

(d) which regulates or supervises any activity similar to a regulated activity or any market on which a person may carry on such an activity; or

(e) which sets international standards for any financial services business (for example, the Basle Committee on Banking, the Financial Action Task Force, etc.);

"**regulatory objectives**" has the meaning given in section 2(2);

"**retirement benefits scheme**" has the meaning given in section 53 of the *Retirement Benefits Schemes Act 2000*;[164]

"**Rule Book**" has the meaning given by section 18;

"**subsidiary**" means a body corporate (whether or not incorporate under the Companies Acts 1931 to 2004) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the *Companies Act 1974* shall apply with the necessary modifications, and "**holding company**" shall be construed accordingly~~.~~;

"**the Tribunal**" means the Financial Services Tribunal constituted under section 32.

(2) In this Act a person is resident in the Island if —

(a) in the case of an individual, the individual is ordinarily resident in the Island;

(b) in the case of a company —

(i) it is incorporated in the Island; or

(ii) it is registered under the *Foreign Companies Act 2014*;[165]

(c) in the case of any other body of persons, corporate or unincorporate, central management and control of the body is in or from the Island or it has a place of business in the Island.

(3) In this Act "**action for a breach**" means the exercise of any one or more of the following powers —

(a) the revocation or suspension of a licence;

(b) the issue of a direction as to fitness or propriety under section 10;

(ba) the imposition of a prohibition under section 10A;[166]

(c) the service of a warning notice under section 11;

(d) the issue of a public statement under section 13.

(e) the issue of a direction under section 14;

(f) the imposition of a penalty under section 16;

(g) an application for an injunction or for restitution under section 20;

(h) the appointment of a receiver under section 21;

(i) the appointment of a business manager under section 22;

(j) the withdrawal of an exemption in accordance with regulations;

(k) the exercise of powers ~~in relation to a permitted person~~ under Schedule 2.

(4) Subject to section ~~6(3)~~16(5), the exercise of any power referred to in subsection (3) shall not prevent the exercise of any other power or remedy under this Act nor shall it prevent the commencement of proceedings for an offence under this Act.

(5) In determining for any purposes of this Act whether any particular matter is desirable in the public interest, the Authority shall take into account all matters which appear to it in the particular circumstances to be relevant and, among other things, shall have regard to —

(a) the protection of the public;

(b) the deterrent effect of such a public statement; and

(c) the effect of publication on those to whom the statement relates.[167]

(6) In this Act a "**related company**", in relation to a permitted person, means a body corporate (other than a subsidiary of the institution) in which the institution holds a qualifying capital interest.

(7) A qualifying capital interest means an interest in relevant shares of the body corporate which the permitted person holds on a long-term basis for the purpose of securing a contribution to its own activities by the exercise of control or influence arising from that interest.

(8) Relevant shares means shares comprised in the equity share capital of the body corporate of a class carrying rights to vote in all circumstances at general meetings of the body.

(9) A holding of 20 per cent or more of the nominal value of the relevant shares of a body corporate shall be presumed to be a qualifying capital interest unless the contrary is shown.

(10) In subsection (8), "equity share capital" has the same meaning as in section 1(5) of the *Companies Act 1974*.

49 Amendment of enactments

The enactments specified in Schedule 6 are amended in accordance with that Schedule.

50 Repeal of enactments

The enactments specified in column 1 of Schedule 7 are repealed to the extent specified in column 3 of that Schedule but subject to the transitional provisions and savings in paragraph 5 of Schedule 8.

51 Transitional

The transitional and saving provisions set out in Schedule 8 shall have effect.

52 Financial provisions

(1) Any expenses incurred under this Act by the Treasury or the Authority shall be defrayed out of money provided by Tynwald.[168]

(2) Any fees received under this Act shall form part of the General Revenue of the Island.

53 Short title and commencement

(1) This Act may be cited as the Financial Services Act 2008.

(2) This Act shall come into operation on such day as the Treasury may by order appoint and different days may be so appointed for different provisions and for different purposes.[169]

(3) [Expired][170]

(4) [Spent][171]

SCHEDULE 1

THE ISLE OF MAN FINANCIAL SERVICES AUTHORITY[172]

Section 1(2)

Constitution

1. (1) The Authority shall consist of not less than 7 members appointed by the Treasury, subject to the approval of Tynwald.

A member must be a qualified person.

(2) The Treasury shall appoint one member to be chairperson and another to be deputy chairperson of the Authority.

(3) The Treasury shall, in appointing members of the Authority under ~~sub-paragraph~~ subparagraph (1), have regard to the need for the Authority to include members who, by experience or otherwise, are suitable to participate in the functions of the Authority.

(4) The chief executive officer appointed under ~~sub-paragraph~~ subparagraph (15) shall be a member of the Authority.

(5) A member shall go out of office —

(a) subject to ~~sub-paragraph~~ subparagraph (9), on the expiry of a fixed period of not less than 2 years and not more than 5 years, as expressly provided for in the documents of appointment, and beginning with the date from which the member was appointed; or

(b) if the member ceases to be a qualified person.[173]

(6) A member may be removed from office by resolution of Tynwald if one of the grounds specified in ~~sub-paragraph~~ subparagraph (7) is satisfied.

(7) The grounds are that the member —

(a) has been absent from meetings of the Authority, without permission, for a period of 3 months;

(b) is incapacitated either mentally or physically, from carrying out the member's functions;

(c) has been declared bankrupt (whether in the Island or elsewhere) or entered into an arrangement with his or her creditors; or

(d) is otherwise unfit or unable to discharge the functions of a member.

(8) The proposal for a resolution of Tynwald under ~~sub-paragraph~~ subparagraph (6) must specify which of the grounds in ~~sub-paragraph~~ subparagraph (7) applies.

(9) A member may at any time resign on giving to the Treasury notice in writing of the member's intention to do so.

(10) A retiring member shall be eligible to be re-appointed if the member is otherwise qualified.

(11) Where a member goes out of office under ~~sub-paragraphs~~ subparagraphs (5)(a) or (9) the member shall continue to be a member, subject to the consent of Treasury, for all purposes (except that of filling the vacancy) for such period as Treasury may determine.

(12) If a casual vacancy in the membership of the Authority is to be filled it shall be filled as soon as practicable in like manner and subject to like conditions as the office vacated.

(13) The quorum necessary for the transaction of business by the Authority shall be 3 members.

(14) Section 3 and paragraphs 1, 2(3)(c) and 7 of Schedule 2 to the *Statutory Boards Act 1987* do not apply to the Authority.

(15) The Authority must appoint —

(a) a chief executive officer; and

(b) such other officers as it may consider necessary for carrying out its functions,

on such terms and conditions as it thinks fit.

(16) [Repealed][174]

(17) In this paragraph, a "qualified person" is a person who is not —

(a) a member of Tynwald; or

(b) a public sector employee (within the meaning of section 3 of the *Public Services Commission Act 2015*) other than the Chief Executive Officer of the Authority.[175]

(c) [Repealed][176 177]

Functions

2. (1) The functions of the Authority are —

(a) the regulation and supervision of persons undertaking regulated activities;

(aa) the regulation and supervision of persons undertaking regulated insurance activities or regulated pensions activities;[178]

(ab) the maintenance and development of the regulatory regime for regulated insurance activities and regulated pensions activities;[179]

(b) the maintenance and development of the regulatory regime for regulated activities;

(ba) the conduct of investigations into any potential liability arising from breach of AML/CFT legislation by persons undertaking regulated activities, regulated insurance activities or regulated pensions activities;[180]

(c) the oversight of directors and persons responsible for the management, administration or affairs of commercial entities;

(d) [Repealed][181]

(e) participation in consultative bodies, working groups and other arrangements;

(f) the functions conferred on it under this Act;

(g) the regulation and supervision of collective investment schemes within the meaning of the *Collective Investment Schemes Act 2008*;[182]

(ga) the regulation and supervision of retirement benefits schemes within the meaning of the *Retirement Benefits Schemes Act 2000*;[183]

(h) the functions conferred on it under the Acts specified in ~~sub-paragraph~~ subparagraph (2); and

(i) the functions conferred on it under any other statutory provision.[184]

(2) The Acts referred to in ~~sub-paragraph~~ subparagraph (1)(h) are —

(a) the *Industrial and Building Societies Act 1892*;

(b) and (c) [Repealed][185]

(d) the *Companies Act 1931*;

(e) to (g) [Repealed][186]

(h) the *Income Tax Act 1970*;

(i) the *Companies Act 1974*;

(j) the *Companies Act 1982*;

(k) [Repealed][187]

(l) the *Building Societies Act 1986*;

(m) the *Insurance Act 2008*;[188]

(ma) the *Retirement Benefits Schemes Act 2000*;[189]

(mb) the *Life Assurance (Insurable Interests) Act 2004*;[190]

(n) the *Collective Investment Schemes Act 2008*;[191]

(o) [Repealed][192]

(p) the *Credit Unions Act 1993*;

(q) the *International Business Act 1994*;

(r) the *Limited Liability Companies Act 1996*;

(s) the *Companies (Transfer of Domicile) Act 1998*;

(t) the *Insider Dealing Act 1998*;

(u) [Repealed][193]

(v) the *Online Gambling Regulation Act 2001*;

(w) and (x) [Repealed][194]

(y) the *Companies Act 2006*;

(z) the *Company Officers (Disqualification) Act 2009*;[195]

(za) the *Terrorism and Other Crime (Financial Restrictions) Act 2014*;[196]

(zb) the *Incorporated Cell Companies Act 2010*;[197]

(zc) the *Foundations Act 2011*;[198]

(zd) the *Payment Services Act 2015*; and[199]

(ze) the *Designated Businesses (Registration and Oversight) Act 2015*.[200]

(zf) the *Beneficial Ownership Act 2017*~~.~~;[201]

(zg) the *Bank (Recovery and Resolution) Act 2020*.

Authority's functions: manner of discharge[202]

3. In discharging its functions the Authority must have regard to —

(a) the need to balance the regulatory objectives;

(b) the need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden;

(c) the need to use resources in an efficient and economic way;

(d) the desirability of implementing and applying recognised international standards;

(e) the desirability of cooperating with governments, regulators and others outside the ~~island~~Island;

(f) the need to safeguard the reputation of the ~~island~~Island;

(g) the need to promote public understanding of the financial services, insurance and pensions industries;

(h) the responsibilities of those who manage the affairs of permitted persons, insurers and retirement benefits schemes;

(i) the international character of the financial services, insurance and pensions industries and their markets and the desirability of maintaining the competitive position of the Island;

(j) the desirability of facilitating the development of the financial services, insurance and pensions industries;

(k) the impact of its decision on the stability of the financial system of the Island.[203]

Treasury directions and guidance[204]

4. (1) After consulting the Authority, the Treasury may give the Authority —

(a) written guidance of a general character; and

(b) written directions of a general character concerning the policies to be followed by the Authority in relation to the development of and supervision of regulated activities in the Island and the manner in which the Authority is to carry out any of its functions.[205] [206]

(2) In carrying out its functions the Authority must —

(a) take into account any guidance under ~~sub-paragraph~~ subparagraph (1)(a); and

(b) comply with any directions given under ~~sub-paragraph~~ subparagraph (1)(b).[207]

(2A) Any guidance or direction given under this paragraph —

(a) may be given only in the public interest, and not to influence particular cases;

(b) must not prejudice the operational independence of the Authority by specifying the manner in which the Authority must carry out its functions; and[208]

(c) must be published as soon as reasonably practicable (but may come into operation as soon as it is given).[209]

(2B) The Treasury may by order amend paragraph 2 or 3 to such extent as is necessary to secure consistency with any guidance or direction given under ~~sub-paragraph~~ subparagraph (1).[210]

(3) The members of the Authority are responsible to the Treasury for the proper operation of the Authority and its compliance with the requirements of this Act.[211]

(4) ~~Sub-paragraph~~ Subparagraph (3) is not in derogation of any right or remedy in respect of the acts and omissions of the members of the Authority.[212]

Monitoring and enforcement

5. (1) The Authority must maintain arrangements designed to enable it to determine whether persons on whom requirements are imposed under this Act are complying with them.[213]

(2) Those arrangements may provide for functions to be performed on behalf of the Authority by any body or person who, in its opinion, is competent to perform them.[214]

(3) The Authority must also maintain arrangements for enforcing the provisions of, or made under, this Act or the statutory provisions referred to in paragraph 2(1)(f) to (h).[215]

(4) ~~Sub-paragraph~~ Subparagraph (2) does not affect the Authority's duty under subparagraph (1).[216]

(5) This paragraph is without prejudice to paragraph 3 of Schedule 2 to the *Statutory Boards Act 1987*.

Records

6. (1) The Authority must maintain satisfactory arrangements for —

(a) recording decisions made in the exercise of its functions; and

(b) the safe-keeping of those records which it considers ought to be preserved.[217]

(2) This paragraph is without prejudice to the *Public Records Act 1999*.

Annual Report

7. (1) The Authority shall as soon as possible after the beginning of each financial period, submit to the Treasury —

(a) a report of the Authority's proceedings and activities for the previous year; and[218]

(b) accounts audited under the provisions of the *Audit Act 2006*.[219]

(2) The annual report shall include a report on the performance of the Authority with respect to —

(a) the obligations under section 2(1)(a) (regulatory objectives);

(b) the obligations under paragraph 3 of this Schedule;

(c) the policies and strategies specified by the Treasury under paragraph 4;

(d) any other matter about the effectiveness and efficiency of the operations of the Authority as the Treasury may direct.[220] [221]

(3) The report and accounts prepared in accordance with this paragraph shall be laid before Tynwald.

Complaints

8. The Authority shall make and publish a document containing a policy for investigation and adjudication in the case of complaints made against the Authority.[222]

Interpretation

9. In this Schedule —

"**functions**" means functions conferred on the Authority and referred to in paragraph 2;

"**regulated insurance activities**" in relation to an activity carried on by way of business in or from the Island, means —

(a) carrying on or holding out as carrying on insurance business within the meaning of the *Insurance Act 2008*;

(b) acting or holding out as acting as an insurance manager, within the meaning of the *Insurance Act 2008*, for or in relation to an insurer; or

(c) acting or holding out as acting as an insurance intermediary within the meaning of the *Insurance Act 2008* in respect of effecting or carrying out contracts of insurance which are not investments within the meaning of the Regulated Activities Order 2011;

"**regulated pension activities**" in relation to an activity carried on by way of business in or from the Island, means —

(a) acting or holding out as acting as a retirement benefits schemes administrator; or

(b) acting as a trustee of a retirement benefits scheme,

within the meaning of the *Retirement Benefits Schemes Act 2000*.[223]

SCHEDULE 1A[224]

[Section 3A]

TRANSFER OF BUSINESS INCLUDING DEPOSIT-TAKING

1 Schemes transferring business including deposit-taking

For the purposes of this Schedule "a relevant transfer scheme" is a scheme under which —

(a) the whole or part of the business carried on in or from within the Island by a licenceholder (the "transferor") is to be transferred to another person (the "transferee"); and

(b) the whole or part of the business to be transferred comprises or includes, deposit-taking.

2 Compromise forming part of relevant scheme

If a relevant transfer scheme involves a compromise or arrangement to which section 152 of the Companies Act 1931 applies, that section and sections 153 and 154 of that Act (which concern arrangements and reconstructions) apply to the scheme, but without limiting the provisions of this Schedule.

3 Application for order sanctioning relevant transfer scheme

(1) An application may be made to the High Court for an order sanctioning a relevant transfer scheme.

(2) The application may be made by the transferor, the transferee, or both.

4 Requirements in connection with applications

(1) The Authority may by regulations impose requirements in connection with applications (whether they are to be met by transferors or transferees) under paragraph 3.[225]

(2) The High Court may not determine an application under that paragraph if the requirements imposed under ~~sub-paragraph~~ subparagraph (1) have not been met.

5 Right to participate in proceedings

On an application under paragraph 2, the following are also entitled to be heard, —

(a) the Authority, and[226]

(b) any person (including an employee of the transferor or of the transferee) who alleges that he or she would be adversely affected by the carrying out of the scheme.

6 Sanction of the court for relevant transfer schemes

(1) ~~This paragraph sets~~ Subparagraphs (2) and (3) set out conditions which must be satisfied (in addition to any imposed under paragraph 3) before the High Court may make an order under this section sanctioning a relevant transfer scheme.

(2) The High Court must be satisfied that the transferee has the authorisation required (if any) to enable the business, or part, which is to be transferred to be carried on in the place to which it is to be transferred (or will have it before the scheme takes effect).

(3) The High Court must consider that, in all the circumstances of the case, it is appropriate to sanction the scheme.

(4) Where the High Court makes an order under this Schedule sanctioning a scheme, the High Court may order –

(a) the transfer to the transferee of the whole or a part of the business and of the property or liabilities of the transferor (including any part of the business that is not the business of deposit taking);

(b) the allotting or appropriation by the transferee of any shares, debentures, policies, deposits or other like interests in the transferee which under the scheme are to be allotted or appropriated by the transferee to or for any person;

(c) the continuation by or against the transferee of any legal proceedings pending by or against the transferor;

(d) the dissolution, without winding up, of the transferor; and

(e) such incidental, consequential and supplementary matters as are necessary to secure that the transfer of the scheme shall be fully and effectively carried out.

SCHEDULE 2

INSPECTION AND INVESTIGATION

Sections 15 & 34(2)

Inspection and investigation

1. ~~(1) The Authority may inspect the books, accounts and documents and investigate the transactions of —~~

~~(a) a permitted person;~~

~~(b) a former permitted person; or~~

~~(c) a recognised auditor (but only insofar as concerns the audit of market traded companies).~~[227] [228]

(1) The Authority may inspect the books, accounts and documents, and investigate the transactions of any person, provided that the inspection or investigation is in performance of any of the Authority's functions specified in paragraph 2(1) (functions) of Schedule 1, whether or not the Authority suspects that the person has contravened, or caused the contravention of, a requirement under this or any other enactment.

(1A) The powers of inspection and investigation described in subparagraph (1) may be exercised instead of or in conjunction with any other powers of the Authority described under this Act or any other enactment.

(2) The Authority shall have every power of entry and access as may be necessary for the purposes of ~~sub-paragraph~~ subparagraph (1), and it may take possession of all such books, accounts and documents as, and for so long as may be necessary for those purposes.[229]

(3) The Authority may take copies of all books, accounts and documents in its possession for the purposes of an inspection and investigation under this paragraph.[230]

(4) A person who intentionally obstructs the Authority when acting in the execution of its powers under ~~sub-paragraph~~ subparagraphs (1), (2) or (3) is guilty of an offence.[231]

(5) The rights of entry and access under ~~sub-paragraph~~ subparagraph (2) shall be exercised only during reasonable hours.

~~(6) The powers provided by this paragraph may be exercised in relation to a former permitted person or a former recognised auditor, but only in respect of, or in connection with such transactions, matters or circumstances as occurred or existed when that person was a permitted person or a recognised auditor.~~[232]

(6) The powers provided by this paragraph may be exercised in relation to a person who was formerly engaged in an activity falling within the functions of the Authority specified in paragraph 2(1) of Schedule 1, but only in respect of or in connection with a transaction, matter or circumstances that occurred or existed when that person was so engaged.

(7) ~~The powers provided by this paragraph may be exercised in relation to a person whom the Authority reasonably suspect of~~ Without limiting the exercise of the

powers under this paragraph, those powers may be exercised in relation to a person whom the Authority reasonably suspects of —

(a) carrying on a regulated activity when not a permitted person; or

(b) auditing accounts that are required to be audited by a recognised auditor when not a recognised auditor.[233]

(8) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

~~(9) For the purposes of this paragraph —~~

~~"exempt company" means —~~

~~(a) a company which is an issuer exclusively of debt securities admitted to trading on a regulated market, the denomination per unit of which is at least €50,000 (or the equivalent at the date of issue denominated in another currency); or~~

~~(b) an open-ended investment company defined in section 26 of the *Collective Investment Schemes Act 2008*;~~

~~"incorporated in the Island" in relation to a company means —~~

~~(a) incorporated, formed and registered or capable of being wound up under the *Companies Act 1931*;~~

~~(b) companies incorporated or continued under the *Companies Act 2006*; or~~

~~(c) formed under the *Limited Liability Companies Act 1996*;~~

~~"market traded company" means a company incorporated in the Island, the transferable securities of which are admitted to trading on a regulated market, except where that company is an exempt company;~~

~~"recognised auditor" means an auditor that is entered on the register kept under section 14G of the *Companies Act 1982*.[234]~~

~~(10) The Treasury may amend sub-paragraph (9) by order if it appears to it to be appropriate to do so.[235]~~

Requests for information

2. (1) The Authority may request any person whom it reasonably believes may hold information that it reasonably requires for the performance of its functions under this Act or any other enactment to provide that information.[236]

(2) Without prejudice to the generality of ~~sub-paragraph~~ subparagraph (1) the Authority may request in relation to a person to whom subparagraph (1) refers information about —

(a) the affairs of a customer of a ~~permitted person~~ that person;

(b) any body corporate which is or has at any relevant time been —

(i) a holding company, subsidiary or related company of that ~~permitted~~ person;

(ii) a subsidiary of a holding company of that ~~permitted~~ person;

(iii) a holding company of a subsidiary of that ~~permitted~~ person; or

(iv) a body corporate in the case of which a shareholder controller of that ~~permitted~~ person, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 50 per cent of the voting power at a general meeting or a meeting of the board of directors; and

(c) any partnership of which that person is or has at any relevant time been a member,

if it appears to the Authority necessary for the performance of its functions under this Act or any other enactment.[237]

(3) If it has made a request of ~~a permitted person, former permitted person, recognised auditor or former recognised auditor~~ a person to whom subparagraph (1) refers the Authority may issue directions to that person to secure that effect is given to a request under subparagraph (1) or (2) and the directions shall include a statement of reasons for their issue.[238]

(4) If a person contravenes any direction under ~~sub-paragraph~~ subparagraph (3), the Authority may undertake action for a breach.[239]

(5) A statement by a person in response to a direction issued under this paragraph may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 40.

(6) ~~The powers~~ For the avoidance of doubt, the powers provided by this paragraph may be exercised in relation to a person who is, on reasonable grounds, suspected by the Authority —

(a) of carrying on, or having carried on a regulated activity when not a permitted person;

(b) of auditing or of having audited accounts required to be audited by a recognised auditor when not a recognised auditor.[240]

(7) A person shall not be under an obligation under this paragraph to disclose any information subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

Power of Authority to require information[241]

3. ~~(1) If, on an application made by the Authority, a justice of the peace is satisfied that there is good reason to do so for either or both of the following purposes —~~

~~(a) investigating the affairs, or any aspect of the affairs, of any person so far as it is relevant to any regulated activity that the person is or was carrying on, or appears to be or to have been carrying on;~~

~~(b) assessing compliance with AML/CFT legislation so far as it is relevant to any regulated activity that the person is or was carrying on, or appears to be or to have been carrying on,~~

~~the justice may by written instrument authorise the Authority to exercise the powers under this paragraph which powers are not otherwise exercisable.~~[242]

~~(2) The Authority may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under sub-paragraph (1), require the person whose affairs are to be investigated or any other person whom it has reason to believe has relevant information to attend before the Authority at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation.~~[243]

(1) If, on an application made by the Authority, a justice of the peace is satisfied that there is good reason to do so for the purposes of investigating the affairs, or any aspect of the affairs, of any person, in so far as those affairs are relevant to the Authority's functions under this or any other enactment, the justice may by written instrument authorise the Authority to exercise the powers under this paragraph which are otherwise not enforceable.

(2) The Authority may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under subparagraph (1) require the person whose affairs are to be investigated or any other person whom it has reason to believe has relevant information –

(a) to attend before the Authority at a specified time and place; or

(b) to answer questions or otherwise furnish information with respect to any matter relevant to the investigation; or

(c) to attend before the Authority at a specified time and place and answer questions or otherwise furnish information with respect to any matter relevant to the investigation.

(3) The Authority may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under ~~sub-paragraph~~ subparagraph (1), require any person to produce at a specified time and place any specified documents or copies of documents which appear to the Authority to relate to any matter relevant to the investigation or any document of a specified class which appear to it so to relate.[244]

(4) If documents or copies of documents are not produced as required under ~~sub-paragraph~~ subparagraph (3), the Authority may require the person who was required to produce them to state, to the best of that person's knowledge and belief, where they are.[245]

(5) Where any documents are produced as required under ~~sub-paragraph~~ subparagraph (3), the Authority may —

(a) take possession of all such documents for so long as may be necessary;

(b) take copies or extracts from them; or

(c) require the person producing them to provide an explanation of any of them.[246]

(6) A statement by a person in response to a requirement imposed under this paragraph may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of —

(a) ~~sub-paragraph~~ subparagraph (8); or

(b) section 40.

(7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

(8) Any person who, without reasonable excuse, fails to comply with a requirement imposed under this paragraph is guilty of an offence.

(9) In this paragraph, "documents" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include reference to producing a copy of the information in legible form.

(10) Where a person claims a lien on a document, its production under this paragraph is without prejudice to the lien.

Deemster's search warrant

4. (1) Where, on information on oath laid by the Authority, a Deemster is satisfied, in relation to any documents, that there are reasonable grounds for believing —

(a) that —

(i) a person has failed to comply with an obligation under paragraph 3 to produce them or copies of them;

(ii) it is not practicable to serve a notice under paragraph 3(3) in relation to them; or

(iii) the service of such a notice in relation to them might seriously prejudice the investigation; and

(b) that they are on premises specified in the information,

the Deemster may issue such a warrant as is mentioned in ~~sub-paragraph~~ subparagraph (2).[247]

(2) The warrant referred to in ~~sub-paragraph~~ subparagraph (1) is a warrant authorising any person named in the warrant —

(a) to enter (using such force as is reasonably necessary for the purpose) and search the premises; and

(b) to take possession of any documents appearing to be documents of the description specified in the information, or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.

(3) If, during the course of a search of premises for documents of a description specified in the information, other documents are discovered which appear to contain evidence in relation to an offence under this Act, the person named in the warrant may —

(a) take possession of those documents; or

(b) take in relation to them any other steps which may appear to be necessary for preserving them and preventing interference with them.

(4) A person executing a warrant issued under ~~sub-paragraph~~ subparagraph (1) shall be accompanied by a constable.

(5) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

Authorised persons

5. (1) The Authority may authorise any person to exercise on its behalf all or any of the powers conferred by or under this Schedule.[248]

(2) But no authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.

(3) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under ~~sub-paragraph~~ subparagraph (1) unless he or she has, if required to do so, produced evidence of his or her authority.

SCHEDULE 3

THE RULE BOOK

Section 18(4) & (5)

1. (1) The Rule Book may include provision in respect of —

(a) the standard of service and practices to be adopted by licenceholders to support fair and responsible treatment of customers;

(b) the terms of business and other contracts entered into between licenceholders and their customers in relation to any regulated activity;

(c) the systems, procedures, record-keeping, controls and training which must be instituted and operated by a licenceholder in the course of its business;

(d) the retention of documents and records by licenceholders;

(e) the effecting of policies of indemnity insurance by licenceholders in such form, indemnifying them to such sum, in such manner, in respect of such matters, and valid for such period as may be specified in the Rule Book;

(f) the imposition of obligations on licenceholders to ensure that officers and employees of the licenceholder or such classes of officers and employees as may be specified in the Rule Book are resident in the Island;

(g) the imposition of obligations on licenceholders to ensure the appropriate level of competence and suitability in its employees, agents, persons acting in accordance with its instructions and persons recommended by it to undertake any function relating to any regulated activity;

(h) ensuring that the functions referred to in paragraph (g) are undertaken by its employees with due skill and in a diligent and proper manner;

(i) the identification by a licenceholder of persons with, for or in respect of whom the licenceholder engages in any regulated activity;

(j) the identification of the nature and purpose of any business, transaction or arrangement undertaken by persons with, for or in respect of whom the licenceholder engages in any regulated activity;

(k) the circumstances in which a licenceholder must refuse to engage in any regulated activity with, for or in respect of any person;

(l) arrangements by licenceholders for the settlement of disputes;

(m) the keeping of accounts and other financial records of a licenceholder, their form, content, inspection and audit, the description of persons to be treated as auditor for the purposes of section 17 and the submission of copies or extracts to the Authority at such times and on such occasions as may be specified in the Rule Book;[249]

(n) the disclosure of the amount or value, or of arrangements for the payment or provision, of commissions or other inducements in connection with any business carried on by a licenceholder and the matters by reference to which or the manner in which their amount or value may be determined;

(o) the financial resources of licenceholders;

(p) the assets, liabilities and other matters to be taken into account in determining a licenceholder's financial resources for the purposes of the Rule Book;

(q) the financial statements and returns which must be submitted to the Authority;[250]

(r) the form and content of advertisements relating to the business of a licenceholder;

(s) statements that must or must not be included in letterheads, correspondence, invoices and other documents relating to the business of a licenceholder;

(t) the display of notices and the provision of information about the affairs of permitted persons to the public at offices and places of business of licenceholders;

(u) the giving of notice to the Authority and such other persons as may be specified of such circumstances or the occurrence of such events as may be so specified;[251]

(v) the treatment to be afforded to money received by a licenceholder and in particular may provide that money held by a licenceholder is held on trust and the terms and purposes of any such trust;

(w) the submission to the Authority (at such times and on such occasions as may be specified) of such information, statements, statistical and other returns, reports or certificates as may be so specified; and[252]

(x) the form, content and validation of any information or document required to be produced by a licenceholder to the Authority.[253]

(2) For the sake of clarity "specified" (without more) in ~~sub-paragraph~~ subparagraph (1) means specified by the Authority in such manner as it thinks fit.[254]

(3) Where the Authority specifies any requirement otherwise than in the Rule Book it must take reasonable steps to draw the requirement to the attention of those likely to be affected by it.[255]

2. Any institution with which an account is kept in pursuance of a provision of the Rule Book made under paragraph 1(v) does not incur any liability as constructive trustee where money is wrongfully paid from the account unless the institution —

(a) permits the payment with knowledge that it is wrongful; or

(b) has deliberately failed to make enquiries in circumstances in which a reasonable and honest person would have done so.

3. The Rule Book may include a declaration that —

(a) the persons to whom it applies shall comply with such rules, regulations, codes, guidance or standards as are from time to time in force and made or issued by a regulatory authority (whether made before or after the commencement of this Act);

(b) those rules, regulations, codes, guidance or standards shall apply to that person with such exceptions and modifications as may be specified in the declaration.

SCHEDULE 4

MEDIATION AND ADJUDICATION

Section 24

Mediation in financial services disputes

1. (1) A "**financial services dispute**" is a dispute between —

(a) an individual or body corporate where that body corporate is a trustee or manager of a self-invested personal pension scheme ("**the complainant**"); and[256]

(b) a person who, in or from the Island, has supplied the complainant with financial services ("**the supplier**"),

where the dispute relates to those services.

(2) A financial services dispute may be referred to the Isle of Man Office of Fair Trading ("**OFT**") by the submission of a completed complaint form by the complainant.

(3) The OFT shall seek to mediate between the parties to a referred financial services dispute by —

(a) inquiring into the circumstances and cause of the dispute; and

(b) offering the parties to the dispute its assistance (which may be by way of mediation or arbitration or by any other means) with a view to bringing about a settlement.

(4) The OFT may by order amend ~~sub-paragraph~~ subparagraph (1)(a) to include bodies corporate in such circumstances as may be prescribed.

(5) This paragraph does not apply in relation to a payment services dispute (see paragraph 1A).[257]

Mediation in payment service disputes[258]

1A. (1) A "**payment services dispute**" is a dispute, relating to a payment service, between —

(a) a payment service user who falls within subparagraph (4) or other interested party ("the complainant"); and[259]

(b) a payment service provider.

(2) A payment services dispute may be referred to the OFT by the submission to that office of a completed complaint form by the complainant.

(3) The OFT must seek to mediate between the parties to a payment services dispute which has been referred to it by —

(a) inquiring into the circumstances and cause of the dispute; and

(b) offering its assistance to the parties to the dispute (whether by way of mediation or arbitration or any other means) with a view to bringing about a settlement.[260]

(4) A complainant falls within this subparagraph if (but only if) the complainant is —

(a) a consumer within the meaning of the Payment Services Directive; or

(b) an individual or a body corporate that is a trustee or manager of a self-invested personal pension scheme.[261]

(5) The OFT may by order amend subparagraph (4).[262]

Cases where mediation not available or may not proceed

2. (1) The OFT may decline or cease to act under paragraph 1(3) or 1A(3) where it appears to it that any of the following conditions is satisfied —

(a) the complainant has not suffered financial loss, material distress or material inconvenience as a result of the actions of the supplier or payment service provider to which the complaint relates ;

(b) the complainant is not directly affected by the subject matter of the complaint;

(c) the supplier or payment service provider has already made an offer of compensation which is fair and reasonable in the circumstances;

(d) the dispute has been the subject of a decision on the merits in proceedings in any court;

(e) the dispute has been properly considered under any enactment or arrangement providing for the resolution of disputes or the investigation of complaints;

(f) the dispute would more suitably be dealt with by a court or under an enactment or arrangement referred to in ~~sub-paragraph~~ subparagraph (e);

(g) the dispute relates to the legitimate exercise of the supplier's or payment service provider's commercial judgment;

(h) the dispute relates to investment performance, except to the extent that the complainant alleges that the supplier or payment service provider has been negligent;

(i) the complaint is frivolous, vexatious or is an abuse of the adjudication process;

(j) the issues raised by the complaint are such that no reasonable benefit would arise from adjudication;

(k) the complainant has not sought compensation under the internal complaints procedure of the supplier or payment service provider or has not exhausted that procedure;

(l) that such a decision is consistent with a previous decision by an ~~adjudicator~~ ombudsman to decline a referred complaint;

(m) the manner in which the complaint is made or pursued by the complainant is abusive or offensive.[263]

~~(2) The OFT shall decline or cease to act under paragraph 1(3) or 1A(3) where it appears to it that the dispute was referred to it —~~

~~(a) more than 2 years after the act or omission giving rise to it came, or ought reasonably have come, to the knowledge of the complainant; and~~

~~(b) in any case, more than 6 years after that act or omission.~~[264]

(2) The OFT must decline or cease to act under paragraph 1(3) or 1A(3) where it appears to it that the dispute was referred to it —

(a) more than 6 months after the date on which the supplier or payment service provider sent the complainant its final response; or

(b) more than 3 years after the act or omission giving rise to it came, or ought reasonably have come, to the knowledge of the complainant, and in any case, more than 6 years after that act or omission.

(2A) Despite subparagraph (2), the OFT may act or continue to act under paragraph 1(3) or 1A(3) if —

(a) in its view, a failure to comply with the time limits in subparagraph (2) was as a result of exceptional circumstances; or

(b) the supplier did not send a valid response.

(2B) For the purposes of subparagraph (2A), "exceptional circumstances" means —

(a) serious illness or death of the complainant;

(b) serious illness or death of the parent, spouse, civil partner, child, stepchild or sibling of the complainant; or

(c) the complainant did not receive the final response of the supplier or payment service provider; or

(d) any other event prescribed by the OFT in an order.

(3) Where, in any proceedings arising out of a financial services dispute, it appears to the High Court that the OFT is acting under paragraph 1(3) or 1A(3) in relation to the dispute, the Court may stay the proceedings on such terms as it thinks fit.[265]

(4) If it appears to the Treasury that other suitable arrangements have been made for the resolution of disputes with suppliers of financial services of any class or description or payment service providers, the Treasury may by order direct that this Schedule shall not apply to disputes which relate solely or mainly to services of that class or description.

Referral to ~~adjudication~~ Ombudsman

3. (1) Where —

(a) the OFT has taken any action under paragraph 1(3) or 1A(3) in relation to a financial services dispute; and[266]

(b) it appears to it that the dispute remains unresolved,

the OFT shall, subject to paragraph 8, on the written application of the complainant, refer the dispute to an ~~adjudicator~~ ombudsman for investigation and adjudication.

~~(2) The senior adjudicator (see paragraph 4(1)) shall nominate the panel member who shall conduct the adjudication in any case.~~

(2) The senior ombudsman or deputy senior ombudsman (see paragraphs 4(1), (2A) and (2B)) must nominate the panel member who is to conduct the adjudication in any case.

(3) Where, in proceedings arising out of a financial services dispute, it appears to the High Court that the dispute has been or may be referred to an ~~adjudicator~~ ombudsman under ~~sub-paragraph~~ subparagraph (1), the Court may give such directions as to the conduct of the proceedings, or of any action, by the ~~adjudicator~~ ombudsman, as it thinks appropriate.

~~Adjudicators~~ Ombudsmen

4. (1) The Appointments Commission shall appoint and maintain a panel of not more than 8 persons (one of whom shall be designated "**the senior ~~adjudicator~~ ombudsman**") appearing to it to be qualified by experience or otherwise to act under this Schedule in relation to financial services disputes or payment service disputes.[267]

(2) But a person who is at that time engaged or employed, or has at any time within the 3 years preceding that time been engaged or employed, in any business consisting of or including the supply of financial services of the same kind as that to which the dispute relates shall not be qualified to act as an ~~adjudicator~~ ombudsman in respect of such a dispute.

(2A) The Appointments Commission may, when appointing and maintaining a panel of persons under subparagraph (1), designate one of those persons (other than the senior ombudsman) as the deputy senior ombudsman.

(2B) The deputy senior ombudsman may carry out any of the functions of the senior ombudsman, and for this purpose a reference in paragraph 7 to the senior ombudsman includes the deputy senior ombudsman.

(2C) In any case where neither the senior ombudsman nor the deputy senior ombudsman is able to carry out the functions of the senior ombudsman, either the senior ombudsman or the deputy senior ombudsman may nominate another ombudsman whom the senior ombudsman or deputy senior ombudsman, as the case may be, is satisfied is appropriately qualified, to perform the functions of the senior ombudsman.

(3) The OFT shall make such arrangements —

(a) as the Treasury may approve for the payment of remuneration and allowances to ~~adjudicators~~ ombudsmen who are acting under this Schedule; and

(b) as the Public Services Commission may approve for the provision of staff to assist such ~~adjudicators~~ ombudsmen.[268]

(4) The OFT may by order amend the maximum number of members of the panel specified in ~~sub-paragraph~~ subparagraph (1).

Resignation etc. of ombudsmen

4A (1) This paragraph applies to persons appointed under paragraph 4,

(2) Persons to whom this paragraph applies may resign from the panel by notice in writing to the Appointments Commission.

(3) If the Commission is satisfied that a person to whom this paragraph applies —

(a) has been absent from the Island for a period longer than 6 consecutive months;

(b) has become bankrupt or made an arrangement with his creditors;

(c) is incapacitated by physical or mental illness; or

(d) is otherwise unable or unfit to discharge his or her functions as a member of a tribunal,

it may by an instrument in writing remove the person from office.

(4) The procedures adopted in connection with the determination of any matter for the purposes of section 5(3) (resignation etc of members of tribunals) of the *Tribunals Act 2006* for the purposes of determining any matter for the purposes of section 5 of that Act shall apply for the purpose of determining any matter for the purposes of subparagraph (3) as if persons to whom this paragraph applies were persons to whom section 5 of that Act applied.

Adjudication

5. (1) The ~~adjudicator~~ ombudsman who is nominated under paragraph 3(2) shall investigate and determine the dispute and shall comply with directions (if any) made by the High Court under paragraph 3(3).

(2) The Treasury may make rules with respect to —

(a) the practice and procedure which is to be adopted in connection with the reference and investigation;

(aa) requiring information about the total value of the loss or damage alleged to have been suffered by the claimant;

(b) time limits for taking any step or undertaking any procedure in the course of an adjudication;

(c) fees to be paid by the ~~complainant and the supplier~~ complainant, supplier or payment service provider.

(3) Subject to ~~sub-paragraph~~ subparagraph (1) and to any provision made by rules under ~~sub-paragraph~~ subparagraph (2), the procedure for conducting such an investigation shall be such as the ~~adjudicator~~ ombudsman considers appropriate in the circumstances of the case.

(4) For the purpose of investigating and determining a financial services dispute or a payment services dispute an ~~adjudicator~~ ombudsman to whom it is referred shall give every party to the dispute an opportunity —

(a) to make representations with respect to the dispute; and

(b) to comment on any representations so made by any other party.[269]

Determination and award by ~~adjudicator~~ ombudsman

6. (1) The ~~adjudicator~~ ombudsman may, if satisfied that the complainant has suffered loss or damage by reason of any wrongful or improper act or omission by the supplier or payment service provider, make such award within ~~sub-paragraph~~ subparagraph (2) as the ~~adjudicator~~ ombudsman considers proper.

(2) An award under ~~sub-paragraph~~ subparagraph (1) may comprise either or both of the following —

(a) a direction to the supplier or payment service provider, within such time as is specified in the award, to take such steps as the ~~adjudicator~~ ombudsman considers appropriate to remedy the act or omission and are so specified, and

(b) an award of compensation, to be paid by the supplier or payment service provider to the complainant, of such amount (not exceeding the applicable amount) as the ~~adjudicator~~ ombudsman considers just and equitable and is specified in the award.[270]

(2A) In ~~sub-paragraph~~ subparagraph (2) "the applicable amount" is —

(a) in respect of an act or omission occurring on or after the date of the coming into operation of this Schedule but before 1 April 2012, £100,000; ~~and~~

~~(b) in respect of an act or omission occurring on or after 1 April 2012, £150,000.~~[271]

(b) in respect of an act or omission occurring on or after 1 April 2012 but before the coming into operation of Part 2 of the *Financial Services (Miscellaneous Provisions) Act 2023*, £150,000;

(c) in respect of an act or omission occurring on or after the coming into operation of Part 2 of the *Financial Services (Miscellaneous Provisions) Act 2023*, £250,000.

(3) Compensation under ~~sub-paragraph~~ subparagraph (2)(b) may consist of or include an amount specified in the award as payable where a direction under ~~sub-paragraph~~ subparagraph (2)(a) is not complied with.

(4) Subject to ~~sub-paragraph~~ subparagraph (6), the determination by an ~~adjudicator~~ ombudsman of a dispute, and any award made by the ~~adjudicator~~ ombudsman under ~~sub-paragraph~~ subparagraph (1), shall be final and binding on the complainant and the supplier or payment service provider but if an application has been made for a review under paragraph 7, the determination and award shall not be final and binding unless confirmed under paragraph 7(3).

(5) An award within ~~sub-paragraph~~ subparagraph (2)(b) shall be enforceable as if it were an execution issued by the High Court.

(6) An appeal on a point of law shall lie to the High Court from the determination or award of an ~~adjudicator~~ ombudsman at the instance of the complainant or the supplier or payment service provider.

Review by senior ~~adjudicator~~ ombudsman

7. (1) The complainant or the supplier or payment service provider may by written application made within 21 days of a determination of a dispute or any award made by an ~~adjudicator~~ ombudsman under paragraph 6(1) request that the senior ~~adjudicator~~ ombudsman carry out a review of the determination and award.

(2) The review by the senior ~~adjudicator~~ ombudsman shall be informal and such procedure may be adopted as the senior ~~adjudicator~~ ombudsman considers to be appropriate but the procedure must afford a fair and equal opportunity to the parties involved.

(3) On completion of a review the senior ~~adjudicator~~ ombudsman may —

(a) confirm the determination or award in question; or

(b) make a new determination or award in place of it.

(4) Subject to ~~sub-paragraph~~ subparagraph (6), the determination by the senior ~~adjudicator~~ ombudsman of a dispute, and any award made by the senior ~~adjudicator~~ ombudsman under ~~sub-paragraph~~ subparagraph (3), shall be final and binding on the complainant and the supplier or payment service provider.

(5) An award under ~~sub-paragraph~~ subparagraph (3) shall be enforceable as if it were an execution issued by the High Court.

(6) An appeal on a point of law shall lie to the High Court from a decision, determination or award of the senior ~~adjudicator~~ ombudsman at the instance of the complainant or the supplier or payment service provider.

(7) The Treasury may make rules for the purpose of regulating and prescribing the practice and procedure to be followed by the senior ~~adjudicator~~ ombudsman in conducting a review under this paragraph.

Cases where adjudication not available or may not proceed

8. (1) The OFT shall not refer a financial services dispute or a payment services dispute to adjudication where it appears to it that any of the conditions specified in paragraph 2(1) is satisfied.[272]

(2) The OFT shall not refer a financial services dispute or a payment services dispute to adjudication where proceedings arising out of the dispute have been commenced in the High Court unless the Court —

(a) gives leave (which may be given on such terms as it thinks fit), or

(b) stays the proceedings under ~~sub-paragraph~~ subparagraph (3)(a).[273]

(3) Where, in proceedings arising out of a financial services dispute or a payment services dispute, it appears to the High Court that the dispute has been or may be referred to an ~~adjudicator~~ ombudsman, the Court may —

(a) stay the proceedings on such terms as it thinks fit;

(b) cancel the reference, or direct that no reference be made, as the case may be.[274]

(4) An ~~adjudicator~~ ombudsman may, at any time before determining a dispute —

(a) cease to investigate it; or

(b) decline to determine it,

~~where it appears to the adjudicator that any of the conditions specified in paragraph 2(1) is satisfied.~~where it appears to the ombudsman that any of the conditions specified in paragraph 2(1) is satisfied or that the total amount of loss or damage to the claimant exceeds the applicable amount.

Investigation and adjudication: supplemental powers

9. (1) For the purposes of an investigation into a financial services dispute or a payment services dispute, an ~~adjudicator~~ ombudsman may require —

(a) the supplier or payment service provider of the financial services or the payment service provider in question;[275]

(b) the complainant; and

(c) any other person who, in the ~~adjudicator's~~ ombudsman's opinion is able to furnish information or produce documents relevant to the investigation,

to furnish any such information or produce any such documents.[276]

(2) For the purposes of any such investigation an ~~adjudicator~~ ombudsman shall have the same powers as a court of summary jurisdiction in respect of the attendance and examination of witnesses (including the administration of oaths and affirmations) and in respect of the production of documents.

(3) No person shall be compelled for the purposes of any such investigation to give any evidence or produce any document which that person could not be compelled to give or produce in civil proceedings before the High Court.

(4) If any person without lawful excuse refuses to comply with any summons issued by an ~~adjudicator~~ ombudsman requiring that person to give evidence or to produce documents, the ~~adjudicator~~ ombudsman may certify the refusal to a court of summary jurisdiction, which shall inquire into the matter and, after hearing any witnesses who may be produced and any statement that may be offered in defence, may deal with the person in accordance with section 102 of the *Summary Jurisdiction Act 1989* as if that person had disobeyed an order mentioned in that section.

Supplementary

10. (1) Subject to paragraph 8(3), nothing in this Schedule affects any right of action or liability of any party to a financial services dispute or a payment services dispute but no person may recover both damages in proceedings to enforce any such

right or liability and compensation under this Schedule in respect of the same loss or damage.[277]

(1A) If an award of any amount has been made by an ombudsman in respect of loss or damage arising from a financial services dispute or a payment services dispute the claimant shall not be entitled to commence or continue proceedings in relation to the same dispute or a dispute that is in any way connected to that dispute.

(2) The *Arbitration Act 1976* shall not apply to any investigation, determination or award under this Schedule.

(3) If it appears to the Treasury expedient to do so having regards to any change in the value of money, the Treasury may by order amend paragraph 6(2A).

An order under this ~~sub-paragraph~~ subparagraph may include any transitional or consequential provision that appears to the Treasury to be necessary or expedient.[278]

Notice of mediation to customers

11. (1) The OFT may by regulations make provision requiring financial services suppliers or payment service providers to notify their customers of the availability of mediation and adjudication under this Schedule in such manner and at such times as may be specified in the regulations.[279]

(2) Any person who contravenes regulations made under subparagraph (1) is guilty of an offence.[280]

Schedule 4: definitions

12. In this Schedule —

"**financial services**" means such regulated activity, insurance business, credit business, pensions business or other financial business as is specified in an order made by the OFT;

"**financial services dispute**" has the meaning given by paragraph 1;

"**the Payment Services Directive**" means the Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market [OJEU No L 319, 5.12.2007, p. 1] as from time to time amended;[281]

"**payment services dispute**" has the meaning given by paragraph 1A;[282]

and references to payment services, payment service providers and payment service users are to be construed in accordance with the Payment Services Directive.[283]

SCHEDULE 5

DISCLOSURE OF INFORMATION

Section 31

Restrictions on disclosure of information

1. (1) Subject to paragraph 2, information which is restricted information for the purposes of this paragraph and relates to the business or other affairs of any person shall not be disclosed by a person mentioned in ~~sub-paragraph~~ subparagraph (3) ("the primary recipient") or any person obtaining the information directly or indirectly from the primary recipient without the consent of the person to whom it relates.

(2) Subject to ~~sub-paragraph~~ subparagraph (4), information is restricted information for the purposes of this paragraph if it is obtained by the primary recipient for the purposes of, or in the discharge of the primary recipient's functions under, this Act, the *Collective Investment Schemes Act 2008* or any public document made under those Acts (whether or not by virtue of any requirement to supply it made under those provisions).[284]

(3) The persons mentioned in ~~sub-paragraph~~ subparagraph (1) are —

(a) the Treasury and its members;

(b) the Authority and its members;[285]

(c) any person appointed or authorised to exercise any powers under section 16 of the *Collective Investment Schemes Act 2008*;[286]

(d) the Isle of Man Office of Fair Trading or an ~~adjudicator~~ ombudsman to whom a dispute has been referred to under Schedule 4;

(e) any body administering a scheme under section 25; and

(f) any officer or servant of any such person.

(4) Information shall not be treated as restricted information for the purposes of this paragraph if it has been made available to the public by virtue of being disclosed in any circumstances in which or for any purpose for which disclosure is not precluded by this paragraph.

(5) Any person who contravenes this paragraph is guilty of an offence.

Exceptions from restrictions on disclosure

2. (1) Paragraph 1 shall not preclude the disclosure of information —

(a) to the Attorney General with a view to the institution of or otherwise for the purposes of criminal proceedings whether in the Island or elsewhere;[287]

(aa) to the Attorney General for use as evidence in criminal proceedings whether in the Island or elsewhere and whether or not the information is comprised in documents;[288]

(b) to any constable for the purpose of enabling or assisting the Isle of Man Constabulary to discharge its functions;

(c) with a view to the institution of or otherwise for the purposes of any civil proceedings arising under or by virtue of this Act or the *Collective Investment Schemes Act 2008*;[289]

(d) for the purpose of enabling or assisting the Treasury to discharge its functions under this Act or under the enactments relating to companies, insurance companies or insolvency or for the purpose of enabling or assisting any inspector appointed by the High Court under the enactments relating to companies to discharge the functions of inspector;

(da) for the purpose of enabling or assisting the Department for Enterprise under enactments relating to the regulation and registration of companies, limited partnerships and other similar bodies;[290]

(e) for the purpose of enabling or assisting the body administering a scheme under section 25 to discharge its functions under the scheme;

(f) for the purpose of enabling or assisting the Authority to discharge its functions under this Act, the *Collective Investment Schemes Act 2008*, the enactments relating to companies, the *Insurance Act 2008*, the *Retirement Benefits Schemes Act 2000*, or any other of its functions;[291]

(fa) for the purpose of enabling —

(i) a receiver appointed under section 21;

(ii) a business manager appointed under section 22; or

(iii) a reporting accountant appointed under section 23,

to carry out the functions for which he or she has been appointed;[292]

(fb) for the purpose of enabling or assisting the Authority to discharge its functions under any enactment with respect to a possible breach of AML/CFT legislation;[293]

(g) [Repealed][294]

(h) for the purpose of enabling or assisting the Assessor of Income Tax to ~~discharge functions under enactments relating to income tax~~ discharge its functions under any enactment;

(i) for the purpose of enabling or assisting an official receiver (whether appointed in the Island or elsewhere and whether in respect of a person in the Island or elsewhere) to discharge the functions of official receiver under the enactments relating to insolvency;

(j) for the purpose of enabling or assisting a receiver or liquidator (whether appointed in the Island or elsewhere and whether in respect of a person in the Island or elsewhere) to discharge the functions of receiver or, as the case requires, liquidator;

(k) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise by an advocate or registered legal practitioner, auditor, accountant, valuer or actuary of their professional duties;

(l) for the purpose of enabling or assisting any person appointed or authorised to exercise any powers under section 15 and Schedule 2 to this Act or section 16 of the *Collective Investment Schemes Act 2008* to discharge those functions;[295]

(m) for the purpose of enabling or assisting in the discharge of the functions of the auditor of a permitted person;

(n) for the purpose of enabling or assisting the Isle of Man Office of Fair Trading and any ~~adjudicator to discharge their respective functions under Schedule 4~~ ombudsman to discharge their respective functions under any enactment or for the purpose of enabling or assisting any person exercising equivalent functions outside the Island;[296]

~~(na) for the purpose of enabling or assisting the Isle of Man Office of Fair Trading to discharge its functions under the enactments listed in sub-paragraph (1A);~~[297]

(o) for the purpose of enabling or assisting the Gambling Supervision Commission in the discharge of its functions under enactments relating to all forms of gambling;

(p) if the information is or has been available to the public from other sources;

(q) in a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained;

(r) for the purpose of enabling or assisting the Public Services Commission to investigate the conduct of its employees; ~~or~~[298]

(s) for the purpose of enabling or assisting ~~to Collector~~the Collector of Customs and Excise to discharge the Collector's functions under enactments relating to customs and excise or in relation to any assigned matter (as defined in section 184 of the *Customs and Excise Management Act 1986*); ~~or~~[299]

(t) for the purposes of ~~enabling the Financial Service Tribunal to carry out its functions (regardless of the enactment under which the function is conferred).~~ enabling or assisting the Financial Service Tribunal to carry out its functions (regardless of the enactment under which the function is conferred);

(u) for the purpose of enabling or assisting the Cabinet Office to carry out any of its functions (regardless of the enactment under which the function is conferred);

(v) for the purpose of enabling or assisting the Cabinet Office to carry out any of its functions; or

(w) for the purpose of enabling or assisting the Financial Intelligence Unit to carry out any of its functions.

~~(1A) The enactments referred to in sub-paragraph subparagraph (1)(na) are —~~

~~(a) the *Auctions Act 1985*;~~

~~(b) the *Chapmen's Act 1971*;~~

~~(c) the *Consumer Protection Act 1991*;~~

~~(d) the *Consumer Protection (Trade Descriptions) Act 1970*;~~

~~(da) the *Estate Agents Act 1975*;~~[300]

~~(e) the *Fair Trading Act 1996*;~~

~~(f) the *Moneylenders Act 1991*;~~

~~(g) the *Non-Resident Traders Act 1983*;~~

~~(h) the *Timeshare Act 1996*;~~

~~(i) the Trade Marks Act 1994 (of Parliament) (c.26);~~

~~(j) the *Unsolicited Goods and Services (Isle of Man) Act 1974*; and~~

~~(k) the *Video Recordings Act 1995*.~~[301]

~~(1B) The Treasury may by order amend the list in sub-paragraph subparagraph (1A).~~[302]

~~(2) Subject to sub-paragraph (3), paragraph 1 shall not preclude the disclosure of information for the purpose of enabling or assisting any public or other authority in the Island for the time being designated for the purposes of this paragraph by an order made by the Treasury to discharge any functions which are specified in the order.~~

~~(3) An order under sub-paragraph (2) designating an authority for the purposes of that sub-paragraph may —~~

~~(a) impose conditions subject to which the disclosure of information is permitted by that sub-paragraph; and~~

~~(b) otherwise restrict the circumstances in which that sub-paragraph permits disclosure.~~

(2) The Treasury may by order amend paragraph 2(1) to add or remove an entry relating to a public or other authority in the Island.

(3) An order under subparagraph (2) –

(a) must specify the functions of that public or other authority in respect of which disclosure of information is not precluded;

(b) may impose conditions subject to which the disclosure of information is permitted by that subparagraph; and

(c) may otherwise restrict the circumstances in which that subparagraph permits disclosure.

(4) Paragraph 1 shall not preclude the disclosure —

(a) of any information contained in any notice or copy of a notice, notice of the contents of which has not been given to the public, by the person on whom it was served or any person obtaining the information directly or indirectly from the person on whom it was served; or

(b) of any information contained in any register required to be kept under this Act.

(5) Paragraph 1 shall not preclude the disclosure of information —

(a) to a regulatory authority; or

(b) for the purpose of enabling or assisting an authority (whether a governmental or private body) in a country or territory outside the Island —

(i) to exercise functions in connection with rules of law corresponding to the provisions of the *Insider Dealing Act 1998*; or

(ii) to exercise functions corresponding to any of those of the Authority under this Act, the *Collective Investment Schemes Act 2008*, the *Insurance Act 2008* or the *Retirement Benefits Schemes Act 2000*.[303]

(iii) [Repealed][304]

(6) ~~Sub-paragraph~~ Subparagraph (5) shall not permit the disclosure of any information relating to the affairs of a customer unless —

(a) the customer consents; or

(b) the Authority has given its written consent to the disclosure in accordance with ~~sub-paragraph~~ subparagraphs (7) to (9).[305]

(7) The Authority may consent to a disclosure of information to which ~~sub-paragraph~~ subparagraph (6) applies if the Authority is satisfied that disclosure is appropriate having regard to its functions and the regulatory objectives, having regard to the confidential nature of the information and the purpose for which it is required.[306]

(8) In deciding whether to consent to a disclosure of information to which ~~sub-paragraph~~ subparagraph (6) applies, the Authority shall take the following factors into account —

(a) the seriousness of the circumstances of the particular case;

(b) the disclosure is (either itself or when taken with other material) likely to be of substantial value to the body to which it is made;

(c) whether the information could be obtained by other means;

(d) the standards of confidentiality and information security which will be applied by the recipient;

(e) whether the making of the disclosure is proportionate to what is sought to be achieved by it; and

(f) whether reciprocal assistance would be given in the country concerned.[307]

(9) The factors set out in ~~sub-paragraph~~ subparagraph (8) are neither exhaustive nor definitive.

(10) The Authority may by order modify —

(a) the matters in respect of which the Authority must be satisfied under ~~sub-paragraph~~ subparagraph (7);[308]

(b) the factors to be taken into account under ~~sub-paragraph~~ subparagraph (8).[309]

Contractual duties of confidentiality

3 (1) Any provision in an agreement (whether a worker's contract or not) between a worker and a person carrying on a regulated activity is void in so far as it purports to preclude a worker from making a disclosure to the Authority which is relevant to its functions under any enactment.

(2) "Worker" has the meaning given in Part IV (protected disclosures) of the Employment Act 2006 and includes any person engaged in any work in relation to a regulated activity.

SCHEDULE 6

AMENDMENT OF ENACTMENTS

Section 49

Sch 6 amends the following Acts —

Bills of Exchange Act 1883 q.v.

Industrial and Building Societies Act 1892 q.v.

Companies Act 1931 q.v.

Trustee Act 1961 q.v.

Income Tax Act 1970 q.v.

Advocates Act 1976 q.v.

Theft Act 1981 q.v.

Companies Act 1982 q.v.

Building Societies Act 1986 q.v.

Legal Aid Act 1986 q.v.

Insurance Act 1986 q.v.

Financial Supervision Act 1988 q.v.

Moneylenders Act 1991 q.v.

Consumer Protection Act 1991 q.v.

High Court Act 1991 q.v.

Companies Act 1992 q.v.

Credit Unions Act 1993 q.v.

Post Office Act 1993 q.v.

Purpose Trusts Act 1996 q.v.

Fair Trading Act 1996 q.v.

Insider Dealing Act 1998 q.v.

Retirement Benefits Schemes Act 2000 q.v.

Online Gambling Regulation Act 2001 q.v.

Trustee Act 2001 q.v.

Anti-Terrorism and Crime Act 2003 q.v.

Fiduciary Services Act 2005 q.v.

Tribunals Act 2006 q.v.

Companies Act 2006 q.v.]

Schedule 7

REPEAL OF ENACTMENTS

Section 50

[Sch 7 repeals the following Acts in part —

Industrial and Building Societies Act 1892

Industrial and Building Societies (Amendment) Act 1955

Building Societies Act 1986

Financial Supervision Act 1988

Insider Dealing Act 1998

Corporate Service Providers Act 2000

Retirement Benefits Schemes Act 2000

Fair Trading (Amendment) Act 2001

Anti-Terrorism and Crime Act 2003

Income Tax Act 2003

Fiduciary Services Act 2005 2001

Tribunals Act 2006.

and the following Acts wholly —

Financial Supervision Commission Act 1984

Investment Business Act 1991

Investment Business (Amendment) Act 1993

Banking Act 1998.]

SCHEDULE 8

TRANSITIONAL AND SAVING PROVISIONS

Section 51

1. Existing members, chairperson and deputy chairperson will continue in office as if appointed under this Act and for the term specified in the *Statutory Boards Act 1987*.

2. Licences and authorisations under any enactment repealed by this Act have effect as licences under this Act.

3. Where a provision of an Act repealed by this Act has been amended by a public document, the amendment in the public document shall, so far as it amends such a provision, be revoked and where a public document is rendered unnecessary by this paragraph, the public document shall itself cease to have effect.

4. Where by virtue of this Act, any references in any enactment to a provision of an Act repealed by this Act is substituted by a reference to this Act, the latter shall be construed as including, in relation to circumstances or purposes in relation to which the former has or had effect, a reference to the former.

5. (1) The repeal by section [50] and Schedule 7 of the provisions of any enactment shall not affect in any way the amendment of other enactments (including savings, transitional provisions and modifications relating to those amendments) made by those provisions or the operation or effect of those amendments.[310]

(2) In ~~sub-paragraph~~ subparagraph (1), “amendment” includes the insertion of words or expressions, and the substitution of other words or expressions.

(3) This paragraph is without prejudice to the generality of sections 3 and 15 of the *Interpretation Act 1976*.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
ADO (whole Act except the repeal of s 21(1)(c) Financial Supervision Act 1988).	SD366/08 as amended by SD590/08) with savings and transitional provisions	1/8/2008

Table of Renumbered Provisions

Original	Current

Table of Endnote References

[1] Long title amended by SD2015/0090 as amended by SD2015/0276.
[2] S 1 substituted by SD2015/0090 as amended by SD2015/0276.
[3] S 2 substituted by SD2015/0090 as amended by SD2015/0276.
[4] S 3A inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 5.
[5] Subpara (ii) amended by Foreign Companies Act 2014 Sch.
[6] Subpara (vi) inserted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3.
[7] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[8] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[9] Para (c) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 6 and by SD2015/0090 as amended by SD2015/0276.
[10] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[11] Para (d) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 6.
[12] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[13] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[14] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
[15] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[16] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[17] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.

[18] Subs (6) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25 and by SD2015/0090 as amended by SD2015/0276.
[19] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[20] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[21] Subs (4) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25 and by SD2015/0090 as amended by SD2015/0276.
[22] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[23] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[24] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
[25] S 10 heading substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 7.
[26] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[27] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[28] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[29] Subpara (i) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 7.
[30] Subpara (ii) amended by SD2015/0090 as amended by SD2015/0276.
[31] Subpara (iii) amended by SD2015/0090 as amended by SD2015/0276.
[32] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[33] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
[34] Subs (8) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 7.
[35] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[36] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[37] S 10A inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 8.
[38] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[39] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[40] Para (d) amended by SD2015/0090 as amended by SD2015/0276.
[41] Para (e) amended by SD2015/0090 as amended by SD2015/0276.
[42] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[43] S 10B inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 8.
[44] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[45] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[46] S 10C inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 8.
[47] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[48] S 10D inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 8.
[49] Para (aa) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
[50] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[51] Subs (1) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9 and by SD2015/0090 as amended by SD2015/0276.
[52] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[53] Para (a) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
[54] Para (b) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
[55] Para (c) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 9.

56 Subs (4) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9 and by SD2015/0090 as amended by SD2015/0276.
57 Para (a) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9 and by SD2015/0090 as amended by SD2015/0276.
58 Para (b) amended by SD2015/0090 as amended by SD2015/0276.
59 Para (b) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
60 Para (b) amended by SD2015/0090 as amended by SD2015/0276.
61 Para (a) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
62 Para (b) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
63 Para (c) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
64 Proviso to subs (7) repealed by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
65 Subs (7) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 9 and by SD2015/0090 as amended by SD2015/0276.
66 Subs (8) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 9.
67 Para (b) amended by SD2015/0090 as amended by SD2015/0276.
68 Para (d) amended by SD2015/0090 as amended by SD2015/0276.
69 Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
70 Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
71 Subs (1) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 10 and by SD2015/0090 as amended by SD2015/0276.
72 Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
73 Subs (3) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 10 and amended by SD2015/0090 as amended by SD2015/0276.
74 Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
75 Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
76 Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
77 Subs (7) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 10 and by SD2015/0090 as amended by SD2015/0276.
78 Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
79 Subs (2A) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 11 and amended by SD2015/0090 as amended by SD2015/0276.
80 Subs (3) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25 and by SD2015/0090 as amended by SD2015/0276.
81 Para (c) amended by SD2015/0090 as amended by SD2015/0276.
82 Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
83 Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
84 Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
85 Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
86 Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
87 S 17 heading amended by SD2015/0090 as amended by SD2015/0276.
88 Para (b) amended by SD2015/0090 as amended by SD2015/0276.
89 Subs (1) amended by SD2015/0090 as amended by SD2015/0276.

[90] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[91] Para (h) amended by SD2015/0090 as amended by SD2015/0276.
[92] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[93] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[94] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[95] Subs (1) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 12 and amended by SD2015/0090 as amended by SD2015/0276.
[96] Subs (2) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 12.
[97] Subpara (v) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 13.
[98] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[99] Para (b) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 13.
[100] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[101] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
[102] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[103] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[104] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[105] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[106] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[107] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[108] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
[109] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[110] Subs (8) amended by SD2015/0090 as amended by SD2015/0276.
[111] Subs (10) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 14 and amended by SD2015/0090 as amended by SD2015/0276.
[112] S 24 amended by SD2015/0206.
[113] Para (a) amended by Collective Investment Schemes Act 2008 Sch 6.
[114] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[115] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[116] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[117] Subs (1) substituted by Beneficial Ownership Act 2017 s 44.
[118] Subs (3) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 15 and amended by SD2015/0090 as amended by SD2015/0276.
[119] Table substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 15.
[120] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
[121] [Editorial Note: S 33 modified in respect of its application to the Bank (Recovery and Resolution Act 2020 by the insertion of paragraph 33(5)(r). See Bank (Recovery and Resolution) Act 2020 s 15. For convenience the inserted text is set out below.
“(r) the Bank (Recovery and Resolution) Act 2020.”]
[122] Para (e) repealed by Insurance (Amendment) Act 2017 Sch 2.
[123] Para (f) repealed by Insurance (Amendment) Act 2017 Sch 2.
[124] Para (h) repealed by Insurance (Amendment) Act 2017 Sch 2.
[125] S 33 substituted by SD2015/0090 as amended by SD2015/0276.

[126] Subs (1) substituted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3 and amended by SD2015/0090 as amended by SD2015/0276.
[127] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[128] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[129] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[130] Subs (2) repealed by Financial Services (Miscellaneous Amendments) Act 2013 s 36.
[131] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[132] S 40 heading substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 17.
[133] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[134] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[135] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[136] Subs (2) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 17 and amended by SD2015/0090 as amended by SD2015/0276.
[137] Subs (3) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 17 and substituted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3.
[138] Subs (1) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25.
[139] Subs (2) amended by Financial Services (Miscellaneous Amendments) Act 2013 ss 18 and 25.
[140] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
[141] Subs (7) amended by SD2015/0090 as amended by SD2015/0276.
[142] Subs (4) substituted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3.
[143] S 43 amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25 and by SD2015/0090 as amended by SD2015/0276.
[144] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[145] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[146] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[147] Subs (3) amended by Interpretation Act 2015 s 106.
[148] Subs (4) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25 and by SD2015/0090 as amended by SD2015/0276.
[149] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[150] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[151] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[152] S 46 amended by SD2015/0090 as amended by SD2015/0276.
[153] Para (f) amended by Communications Act 2021 Sch 9.
[154] Definition of "AML/CFT legislation" inserted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3.
[155] Subpara (i) amended by Civil Partnership Act 2011 Sch 14.
[156] Definition of "the Authority" inserted by SD2015/0090 as amended by SD2015/0276.
[157] Definition of "the Commission" repealed by SD2015/0090 as amended by SD2015/0276.

158 Definition of "controller" amended by Financial Services (Miscellaneous Amendments) Act 2013 s 19.
159 Para (e) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 19.
160 Para (a) amended by SD2015/0090 as amended by SD2015/0276.
161 Definition of "person" inserted by Insurance (Amendment) Act 2017 s 60.
162 Definition of "policyholder" inserted by SD2015/0090 as amended by SD2015/0276.
163 Para (a) amended by SD2015/0090 as amended by SD2015/0276.
164 Definition of "retirement benefits scheme" inserted by SD2015/0090 as amended by SD2015/0276.
165 Subpara (ii) amended by Foreign Companies Act 2014 Sch.
166 Para (ba) inserted by Financial Services (Miscellaneous Amendments) Act 201 s 19.
167 Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
168 Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
169 ADO – SD366/08 as amended by SD590/08 – whole Act in operation for the purposes of making any appointment, order, regulations, rules or Rule Book on 19/06/2008; for all other purposes on 01/08/2008, with savings (see Articles 3 to 9 of SD366/08 as amended).
170 Subs (3) expired 17/06/2011 by virtue of subs (4).
171 Subs (4) spent on expiry of subs (3).
172 Sch 1 heading substituted by SD2015/0090 as amended by SD2015/0276.
173 Subpara (5) substituted by SD2015/0322.
174 Subpara (16) repealed by SD2015/0322.
175 Item (b) substituted by SD2015/0322.
176 Item (c) repealed by SD2015/0322.
177 Para 1 substituted by SD2015/0090 as amended by SD2015/0276.
178 Item (aa) inserted by SD2015/0090 as amended by SD2015/0276.
179 Item (ab) inserted by SD2015/0090 as amended by SD2015/0276.
180 Item (ba) inserted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3 and amended by Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Act 2018 s 17.
181 Item (d) repealed by SD155/10 Sch 2.
182 Item (g) amended by Companies (Amendment) Act 2009 s 34.
183 Item (ga) inserted by SD2015/0090 as amended by SD2015/0276.
184 Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
185 Items (b) and (c) repealed by SD155/10 Sch 2.
186 Items (e) to (g) repealed by SD155/10 Sch 2.
187 Item (k) repealed by SD155/10 Sch 2.
188 Item (m) substituted by SD2015/0090 as amended by SD2015/0276.
189 Item (ma) inserted by SD2015/0090 as amended by SD2015/0276.
190 Item (mb) inserted by SD2015/0090 as amended by SD2015/0276.
191 Item (n) amended by Collective Investment Schemes Act 2008 Sch 6.
192 Item (o) repealed by SD155/10 Sch 2.
193 Item (u) repealed by SD155/10 Sch 2.

[194] Items (w) and (x) repealed by SD155/10 Sch 2.

[195] Item (z) inserted by Company Officers (Disqualification) Act 2009 Sch 4.

[196] Item (za) inserted by Terrorism (Finance) Act 2009 s 29 and substituted by SD2015/0090 as amended by SD2015/0276.

[197] Item (zb) inserted by Incorporated Cell Companies Act 2010 s 36.

[198] Item (zc) inserted by Foundations Act 2011 s 66.

[199] Item (zd) inserted by SD2015/0206, effective 23/07/2015. [Editorial note: The Payment Services Act 2015 was also subsequently added to this list as item (ze) by SD2015/0090 as amended by SD2015/0276, effective 01/11/2015.]

[200] Item (ze) inserted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3, effective 26/10/2015. [Editorial note: The Designated Businesses (Registration and Oversight) Act 2015 was added to this list by the Designated Businesses (Registration and Oversight) Act 2015 as item (zd), effective 26/10/2015, but item (zd) had already been used so the next item number has been used – see also note to item (zd).]

[201] Item (zf) inserted by Beneficial Ownership Act 2017 s 44.

[202] Heading amended by SD2015/0090 as amended by SD2015/0276.

[203] Para 3 substituted by SD2015/0090 as amended by SD2015/0276.

[204] Para 4 heading substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 20.

[205] Item (b) amended by SD2015/0090 as amended by SD2015/0276.

[206] Subpara (1) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 20 and amended by SD2015/0090 as amended by SD2015/0276.

[207] Subpara (2) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 20 and amended by SD2015/0090 as amended by SD2015/0276.

[208] Item (b) amended by SD2015/0090 as amended by SD2015/0276.

[209] Subpara (2A) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 20.

[210] Subpara (2B) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 20.

[211] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.

[212] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.

[213] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.

[214] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.

[215] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.

[216] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.

[217] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.

[218] Item (a) amended by SD2015/0090 as amended by SD2015/0276.

[219] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.

[220] Item (d) amended by SD2015/0090 as amended by SD2015/0276.

[221] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.

[222] Para 8 amended by SD2015/0090 as amended by SD2015/0276.

[223] Para 9 substituted by SD2015/0090 as amended by SD2015/0276.

[224] Sch 1A inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 5.
[225] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[226] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[227] Item (c) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 21.
[228] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[229] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[230] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[231] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.
[232] Subpara (6) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 21.
[233] Subpara (7) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 21 and by SD2015/0090 as amended by SD2015/0276.
[234] Subpara (9) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 21.
[235] Subpara (10) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 21.
[236] Subpara (1) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 21 and amended by SD2015/0090 as amended by SD2015/0276.
[237] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[238] Subpara (3) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 21 and by SD2015/0090 and by SD2015/0276.
[239] Subpara (4) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25 and by SD2015/0090 as amended by SD2015/0276.
[240] Subpara (6) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 21 and by SD2015/0090 as amended by SD2015/0276.
[241] Heading substituted by SD2015/0090 as amended by SD2015/0276.
[242] Subpara (1) substituted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3 and amended by SD2015/0090 as amended by SD2015/0276.
[243] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[244] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[245] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.
[246] Subpara (5) amended by SD2015/0090 as amended by SD2015/0276.
[247] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[248] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[249] Item (m) amended by SD2015/0090 as amended by SD2015/0276.
[250] Item (q) amended by SD2015/0090 as amended by SD2015/0276.
[251] Item (u) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 22 and by SD2015/0090 as amended by SD2015/0276.
[252] Item (w) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 22 and by SD2015/0090 as amended by SD2015/0276.
[253] Item (x) amended by SD2015/0090 as amended by SD2015/0276.
[254] Subpara (2) inserted by Financial Services (Miscellaneous Amendments) Act 2013

s 22 and amended by SD2015/0090 as amended by SD2015/0276.
255 Subpara (3) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 22 and amended by SD2015/0090 as amended by SD2015/0276.
256 Item (a) amended by SD2014/0404 (see SD2014/0404 for interpretation and limitation of effect).
257 Subpara (5) inserted by SD2015/0206.
258 Cross-heading inserted by SD2015/0206.
259 Item (a) amended by SD2015/0281.
260 Para 1A inserted by SD 2015/0206.
261 Subpara (4) inserted by SD2015/0281.
262 Subpara (5) inserted by SD2015/0281.
263 Subpara (1) amended by SD2015/0206.
264 Subpara (2) amended by SD2015/0206.
265 Subpara (3) amended by SD2015/0206.
266 Item (a) amended by SD2015/0206.
267 Subpara (1) amended by SD2015/0206.
268 Item (b) amended by Public Services Commission Act 2015 Sch.
269 Subpara (4) amended by SD2015/0206.
270 Item (b) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 23.
271 Subpara (2A) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 23.
272 Subpara (1) amended by SD2015/0206.
273 Subpara (2) amended by SD2015/0206.
274 Subpara (3) amended by SD2015/0206.
275 Item (a) amended by SD2015/0206.
276 Subpara (1) amended by SD2015/0206.
277 Subpara (1) amended by SD2015/0206.
278 Subpara (3) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 23.
279 Subpara (1) amended by SD2015/0206.
280 Subpara (2) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 25.
281 Definition of "the Payment Services Directive" inserted by SD2015/0281.
282 Definition of "payment services dispute" inserted by SD2015/0206.
283 Para 12 amended by SD2015/0206 and by SD2015/0281.
284 Subpara (2) amended by Collective Investment Schemes Act 2008 Sch 6.
285 Item (b) amended by SD2015/0090 as amended by SD2015/0276.
286 Item (c) amended by Collective Investment Schemes Act 2008 Sch 6.
287 Item (a) substituted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3.
288 Item (aa) inserted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3.
289 Item (c) amended by Collective Investment Schemes Act 2008 Sch 6.

[290] Item (da) inserted by SD155/10 Sch 2 and amended by SD2017/0325.
[291] Item (f) substituted by SD2015/0090 as amended by SD2015/0276.
[292] Item (fa) inserted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3.
[293] Item (fb) inserted by Designated Businesses (Registration and Oversight) Act 2015 Sch 3 and amended by SD2015/0090 as amended by SD2015/0276.
[294] Item (g) repealed by SD2015/0090 as amended by SD2015/0276.
[295] Item (l) amended by Collective Investment Schemes Act 2008 Sch 6.
[296] Item (n) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 24.
[297] Item (na) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 24.
[298] Item (r) substituted by Public Services Commission Act 2015 Sch.
[299] Item (s) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 24.
[300] Para (da) inserted by SD2017/0242.
[301] Subpara (1A) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 24.
[302] Subpara (1B) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 24.
[303] Subitem (ii) substituted by SD2015/0090 as amended by SD2015/0276.
[304] Subitem (iii) repealed by SD2015/0090 as amended by SD2015/0276.
[305] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[306] Subpara (7) amended by SD2015/0090 as amended by SD2015/0276.
[307] Subpara (8) amended by SD2015/0090 as amended by SD2015/0276.
[308] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[309] Subpara (10) amended by SD2015/0090 as amended by SD2015/0276.
[310] Ed. Note: Printed as 49 in the original Act.