

PART I

GENERAL PROVISIONS

- 1.1. (1) These Rules may be cited as the Lautro Rules 1988.
- (2) The Interpretation Act 1978 shall apply for the interpretation of these Rules, and for that purpose these Rules shall be deemed to be contained in a statutory instrument made in pursuance of a power conferred by the Financial Services Act 1986.
- (3) Rules 1.1, 1.2 and 2.1 to 2.6 shall come into force on 26th April 1988 but subject to that and to any other provision in these Rules to the contrary, these Rules shall come into force on the date on which Lautro becomes a recognised self-regulating organisation for the purposes of the Financial Services Act 1986 or, if later, 29th April 1988.

- 1.2. (1) In these Rules, unless the context otherwise requires-

"the 1986 Act" means the Financial Services Act 1986;

"the Appeal Tribunal" means the Appeal Tribunal constituted under Chapter VIII of Part VII of these Rules;

"appointed representative" includes (in addition to any person who is an appointed representative within the meaning of section 44 of the 1986 Act) any person which is not a Member of Lautro but which-

- (a) is an authorised person by virtue of an authorisation granted under section 26 of the 1986 Act, or by virtue of membership of a recognised self-regulating organisation, and
- (b) is a member of a group to which a Member of Lautro belongs, and
- (c) markets investment contracts but only those issued by other members of the same group;

"the Board" means the board of directors of Lautro, and "**Lautro**" means Lautro Limited;

"close relative", in relation to any person, means that person's spouse, child, step-child, parent, step-parent, brother or sister;

"company representative", in relation to any Member, means an individual-

- (a) who is appointed by the Member, or by any other body belonging to the same marketing group, or by an appointed representative of the Member, to procure the sale to investors of the Member's investment contracts or those of any body belonging to the same marketing group or to advise, and who does advise, investors (whether orally or in writing) on the merits of individual investment contracts or, on the exercise of options conferred by investment contracts or whether or not to surrender policies (or both to procure such sales and to give such advice); and
- (b) the terms of whose appointment prohibits him from advising investors on the merits of any investment contract which is not offered for sale by that Member, or of that Member is a member of a marketing group by any other member of that group, unless the advice is given in accordance with paragraph 6(e) of the Code of Conduct set out in Schedule 2 to these Rules;

and references in these Rules to a company representative selling an investment contract are references to a company representative acting in connection with the selling, or the procuring of the sale, of the contract;

“the Disciplinary Committee” means the Disciplinary Committee established under Chapter VII of Part VII of these Rules;

“group” in relation to a body corporate (except in the expression “marketing group”) means that body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company, and section 736 of the Companies Act 1985 (meaning of subsidiary and holding company) shall apply for the purposes of this definition;

“investment contract” means any long term insurance contract or any contract for the sale of units in a collective investment scheme which is an authorised unit trust or is a recognised scheme by virtue of section 86, 87 or 88 of the 1986 Act (including shares in or securities of an open-ended investment company) but, in relation to any Member, does not include any contract which does not form part of that Member’s relevant investment business;

“investor”, in relation to a Member or a company representative, means a person to whom advice is given about investment contracts of that Member or, if that Member is a marketing associate, of any body in the same marketing group or to whom any such contract is or may be sold by a company representative, but does not include an independent intermediary or journalist (when acting as such);

“the Lautro Rules” means the Rules from time to time made by the Board (including these Rules);

“marketing” in relation to an investment, includes anything which is ancillary to the marketing of that investment and also includes the giving of advice with respect to the exercise of any rights subsisting under the contract for the sale of the investment after the contract has been made;

“marketing associate” means a body, other than an appointed representative, which is a member of a group and which markets investment contracts issued by other members of the same group which are or are eligible to be Members of Lautro, but which does not market any other investment contracts or enter into any such contract in its own behalf, disregarding investment contracts as respects the marketing or making of which the body is an authorised person (otherwise than by virtue of its membership of Lautro);

“marketing group” shall be construed in accordance with paragraphs (3) to (7) below;

“Member” means a Member of Lautro;

“month” means a calendar month;

“notice” means notice in writing;

“the prescribed rate” means such rate as the Board may from time to time prescribe for the purposes of the provision in question; and

“regulated insurance company or friendly society” means an insurance company to which Part II of the Insurance Companies Act 1982 applies or which is an authorised person by virtue of section 31 of the 1986 Act or a friendly society which is an authorised person by virtue of section 23 of that Act or a body which is registered under provisions of the law of the country in which it is established corresponding to the Friendly Societies Act 1974, and in relation to a regulated insurance company or friendly society any reference in these Rules to the appropriate regulatory authority means the Secretary of State, the Chief Registrar of Friendly Societies, the Registrar of Friendly Societies for Northern Ireland or any comparable authority in the country in which the body in question is established or carrying on business;

PART III
SELLING PRACTICES

General

- 3.1.** In this Part of these Rules, unless the context otherwise requires -
- (1) **“the Code of Conduct”** means the Code of Conduct set out in Schedule 2 to these Rules;
“independent intermediary” has the meaning given by Rule 4.2;
“Lautro Register of Company Representatives” means the register maintained by the Board of the names of company representatives of Members;
“money” includes cash, cheques, postal orders and stock and share certificates;
“monitoring arrangements” means the arrangements made in pursuance of Rule 3.4(3).
 - (2) References in this Part of these Rules to the sale of an investment contract on an execution-only basis are references to the sale of the contract in the following circumstances, that is to say -
 - (a) a person sells, or arranges for the sale of, that investment contract to an investor as a direct response to a request of the investor to purchase that particular investment contract, and
 - (b) the investor did not seek any advice from, and is not given any advice by, that person relating in any way to that purchase.

Product bias and Polarisation

- 3.2.** (1) Where a company representative is authorised to sell any category of investment contract offered for sale by a Member -
- (a) the Member shall ensure that the company representative is authorised to sell each category of investment contract offered for sale by the Member; and
 - (b) where that Member is a member of a marketing group, that Member and each other member of that group which is also a Member of Lautro shall ensure that each of their company representatives is authorised to sell each category of investment contract offered for sale by the members of the group, whether or not they are also Members of Lautro,
- For the purposes of this paragraph, one investment contract shall be taken to be of the same category as another if the terms of both contracts are the same, whether or not the amount of commission or remuneration payable on the sale of each contract is the same.
- (2) A Member shall not be taken to be in breach of paragraph (1) above by reason only that a company representative is not authorised to sell a particular category of contract if -
- (a) that company representative is not so authorised by reason only that he is not of sufficient competence to sell that category of contract; and
 - (b) another company representative is authorised to sell that category of contract or, if the contract in question is offered for sale by a body which is not a Member of Lautro, a person is authorised by that body to sell the contract.

- (3) A Member shall not be taken to be in breach of paragraph (1) above by reason only that no company representative is authorised to sell a particular investment contract to a particular investor if a company representative, in complying with his duty under paragraph 8(1) of the Code of Conduct, is not required to recommend that contract to that investor by virtue of paragraph 8(3) of the Code.
- (4) A Member shall ensure -
- (a) that the Member's company representatives, and appointed representatives which are not company representatives, are not permitted to sell and do not sell the investment contracts of any person other than that Member or any body which belongs to the same marketing group as the Member otherwise than on an execution-only basis; and
 - (b) that the Member's investment contracts are only sold directly by the Member or by a marketing associate of the Member or by their company representatives or appointed representatives or by independent intermediaries or on an execution-only basis; and
 - (c) that the employees of the Member and of the Member's appointed representatives who are not company representatives do not give advice to an investor on the merits of any of the Member's investment contracts or those of any member of the same marketing group.

Paragraph (b) above shall not apply in relation to investment contracts which (disregarding Rule 1.2(2)) fall within Note 1 to paragraph 10 of Schedule 1 to the 1986 Act).

- (5) A Member shall ensure that the remuneration paid or payable to its company representatives is so structured that none of them (when acting in the course of his duty as such) is likely to be so influenced in recommending investment contracts to investors by the expectation of receiving more remuneration if one kind of investment contract is recommended and less if one of a different kind is recommended that he will fail to comply with his duty under paragraph 8(1) of the Code of Conduct.
- (6) A Member shall ensure that its company representatives are not or are not likely to be influenced by any scheme or arrangement or project or other thing whatsoever to recommend an investment contract to an investor otherwise than in compliance with their duty under paragraph 8(1) of the Code of Conduct.
- (7) A Member shall ensure that the structure of remuneration payable by the Member to its marketing associates (if any) or to its appointed representatives, or any scheme, arrangement, project or other thing, is not such as to be likely to lead the associate or representative to influence any company representative to recommend a contract to an investor otherwise than in compliance with his duty under paragraph 8(1) of the Code of Conduct.
- (8) A Member shall not be taken to be in breach of paragraph (5) or (7) above by reason only that the amount payable to any person in respect of any investment contract differs from the amount payable to that person in respect of any other investment contract if those amounts are all calculated by reference to the same percentage of the maximum rate for the contracts in question set out in Schedule 3 to these Rules. This paragraph shall cease to have effect on 1st January 1990.
- (9) A Member shall provide such particulars about the remuneration of its marketing associates (if any), its appointed representatives and company representatives as the Board may from time to time require.
- (10) For the purposes of this Rule "remuneration" includes a benefit of any kind given, or which may be given, to a marketing associate, a company representative or an appointed representative, and "paid" and "payable" shall be construed accordingly; and -

- (a) benefits payable to an associate (within the meaning of section 207(5) of the 1986 Act) of any person shall be treated as payable to that person; and
 - (b) any benefit payable to a person on behalf of another person shall be treated as payable to that other person.
- (11) Paragraphs (5) to (10) above shall come into force on 1st July 1988.

Business relationships

- 33 (1) A Member shall ensure that none of its company representatives or appointed representatives -
- (a) enters into any business relationship with any other person which would suggest to any reasonable person with knowledge of that relationship that any of the Member's company representatives or appointed representatives is in a position to advise or procure advice on any investment contract which is not offered for sale by that Member, or if that Member is a member of a marketing group by any other member of that group; or
 - (b) does anything (whether by making a statement or conducting himself in any particular way or otherwise) as a result of which an investor could reasonably believe that any of the Member's company representatives or appointed representatives is in a position to advise or procure advice on any such contract as is mentioned in paragraph (a) above.

This paragraph shall not prevent a company representative from referring investors to an independent intermediary in accordance with paragraph 13(4) of the Code of Conduct.

- (2) Without prejudice to paragraph (1) above, a Member shall ensure that none of its company representatives is in partnership with any other person who is -
- (a) an independent intermediary; or
 - (b) a partner in another partnership one of the partners in which is an independent intermediary; or
 - (c) a director of a company which is an independent intermediary; or
 - (d) an **appointed** representative or a company representative of another Member or of a company which is eligible for membership of Lautro, not in either case belonging to the same marketing group as the Member.
- (3) In paragraph (2) above-
- (a) the references to an independent intermediary do not include references to any person whose investment business as respects which he is an authorised person is limited to advising investors on the merits of switching funds under existing investment contracts; and
 - (b) in sub-paragraph (d) above the reference to a company representative in relation to a company which is an authorised **person** by virtue of an authorisation granted under section 27 of **the** 1986 Act is a reference to a person who would be a company representative if the company were a member of Lautro, and, in relation to a company which is not an authorised person, shall be disregarded.
- (4) A Member ("the first Member") shall ensure that none of its appointed representatives is a member of a group -

- (a) another member of which is an appointed representative of another body which is or is eligible to be a Member of Lautro, unless both representatives and the **first** Member and the other body all belong to that group or the **first** Member and that other body are in the same marketing group; or
 - (b) another member of which is a body which is or is eligible to be a Member of Lautro, unless both the **first** Member and the other body belong to that group or are in the same marketing group.
- (5) For the purposes of paragraph (2) above -
- (a) references to a partnership are references to a partnership the business of which consists of or includes investment business or to a partnership any of the partners in which carry on investment business which is connected with or incidental to any business carried on by the partnership; and
 - (b) the definition of “**director**” in section 207 of the 1986 Act shall not apply.
- (6) A Member shall keep a register, in accordance with paragraph (7) below, of -
- (a) any of its appointed representatives which is a member of a group another member of which is an independent intermediary;
 - (b) any of its company representatives (except any to whom Rule 3.5(6) applies) holding more than 15% of the issued shares, or, in the case of a company the share capital of which is divided into classes, of the issued shares of any class of shares, in a company -
 - (i) which is an independent intermediary or is the controller of an independent intermediary; or
 - (ii) which is an appointed representative of another Member or of a company which is eligible for membership of Lautro, not in either case belonging to the same marketing group as the Member, or is the controller of such an appointed representative;
 - (c) any of its company representatives (except any to whom Rule 3.5(6) applies or who fall within paragraph (b) above) a close relative of whom, to the knowledge of the company representative -
 - (i) is an independent intermediary or is in partnership with another person who is an independent intermediary; or
 - (ii) is an employee of an independent intermediary; or
 - (iii) holds more than 15% of the issued shares, or, in the case of a company the share capital of which is divided into classes, of the issued shares of any class of shares, in a company which is an independent intermediary or is the controller of an independent intermediary.

For the purposes of paragraph (iii) above any shares in a company held by a company representative shall be taken to be held by each of his close relatives who also holds shares in that company.

- (7) Paragraphs (3) to (6) above shall apply in relation to a Member's company representatives appointed before the date on which these Rules come into force, or if later the date on which the Member becomes a Member, as if that date were the date on which the company representatives were so appointed.

For the purposes of this paragraph, a person shall be taken to be a company representative if he would be if paragraph (b) of the definition of "company representative" were disregarded.

Proposal forms and policies

- 3.6.** (1) This Rule and Rule 3.7 apply in relation to relevant investment business which relates to contracts of insurance.
- (2) A Member shall issue for use as proposal forms for contracts of insurance to be issued by the Member only forms which comply with the requirements of this Rule and Rule 3.7, whether the forms are to be used by company representatives, marketing associates or by independent intermediaries, and
- (a) the Member shall require its company representatives and marketing associates to use proposal forms which comply with the following provisions of this Rule and Rule 3.7, and
- (b) no other forms shall be used by company representatives or marketing associates.
- (3) If the proposal form requires the disclosure of material facts, a statement must be included in the declaration, or prominently set out elsewhere in the form -
- (a) drawing attention to the consequences of failure to disclose all material facts and explaining that these are facts that an insurer would regard as likely to influence the assessment and acceptance of a proposal; and
- (b) warning that if the signatory is in any doubt about whether certain facts are material, these facts should be disclosed.
- (4) A specific question shall be contained in the form for the proposal of the insurance of a risk of any class relating to any matter which the Member has commonly found to be material to risks of that class.
- (5) The proposal form shall either -
- (a) not include any questions the answers to which might reasonably be expected to be outside the knowledge of the proposer, and which would not be practicable for him to obtain; or
- (b) state that the proposer need not answer any such question, provided that he states that he does not possess and cannot reasonably be expected to obtain the information necessary to answer the question.
- (6) The proposal form shall include a statement -
- (a) that a copy of the terms and conditions on which the insurance will be made is available on request; and
- (b) that a copy of the completed proposal form will be available on request;
- and the Member shall ensure that the proposer is given the copy on request.

- (7) The proposal form shall not be taken not to comply with this Rule by reason only of the omission from the form of the matters required to be included by paragraphs (3) and (6) above if those matters are instead included in documents given to the proposer together with the proposal form.
- 3.7. (1) A proposal form or a policy of insurance issued by a Member shall not contain any provision which converts or purports to convert any statement made by the proposer relating to any fact, whether past or present, into a warranty of that fact except where the warranty concerns the life to be assured under a "life of another" policy.
- (2) Paragraph (1) above does not prevent a Member requiring specific warranties to be given about matters which are material to the risk to be insured.

Unsolicited calls

- 3.8.** Investment contracts may be made in the course of or in consequence of an unsolicited call, other than an unsolicited call made by a person who is not a company representative but who is an employee of a Member or of an appointed representative; and company representatives may make unsolicited calls when acting in their capacity as such representatives.

In this paragraph "**unsolicited call**" means a personal visit or oral communication made without express invitation.

In its application to authorised unit trusts and collective investment schemes recognised by virtue of section 86, 87 or 88 of the 1986 Act, this Rule shall come into force on 1st July 1988.

Business letters etc.

- 3.9. Any letter or personal quotation form used by a Member in the course of its relevant investment business shall contain the following particulars -
- (a) an indication that it is a Member of Lautro (the Lautro logo being sufficient for the purpose);
 - (b) an indication of the general nature of its relevant investment business;
 - (c) if it is a member of a marketing group, a statement of that fact together with the names of the other members of the group.

In its application to personal quotation forms, this Rule shall come into force on 1st July 1988.

Payments to independent intermediaries

- 3.10.** A Member shall ensure that none of its appointed representatives or company representatives make payments to independent intermediaries otherwise than as agents for the Member or any other member of the same marketing group.

Records

- 3.11.** (1) A Member shall maintain or cause to be maintained records of each transaction under which an investment contract is sold by that Member to an investor on the recommendation of a company representative; and those records shall contain sufficient information to show that in relation to that case there has been compliance with the duty in paragraph 8(1) of the Code of Conduct and shall include any notice given to the Member in accordance with paragraph 8(6) of the Code.

PART V

PRODUCT DISCLOSURE AND DISCLOSURE OF COMMISSION

General interpretative provisions

- 5.1. (1) This Part of these Rules shall come into force on 1st July 1988.
- (2) In this Part of these Rules -
- “**appropriate personal pension scheme**” has the same meaning as in Part I of the Social Security Act 1986;
 - “**a cancellation notice**” means a notice of the right to cancel given in accordance with the Financial Services (Cancellation) Rules 19 87;
 - “**cash value**”, in relation to units in a unit trust at any time, means the amount which the managers of the unit trust would pay the investor if the investor were to sell the units to the managers at that time;
 - “**commencement date**”, in relation to an investment contract which is proposed to be made, means the date on which it is proposed that the contract should commence;
 - “**endowment type assurance**” means a contract of insurance which secures a capital sum payable on survival for a specified term or either on survival for a specified term or on earlier death, or on earlier death or disability, including a contract securing the sum on death only if occurring after the attainment of a specified age not exceeding 16, but does not include any contract effected as part of a personal pension scheme or an occupational pension scheme;
 - “**future benefit**” has the meaning given by Rule 5.3(3);
 - “**given**” includes sent;
 - “**Holloway sickness policy**” means a policy offered or issued by a friendly society under the Holloway system;
 - “**linked benefit**” means a benefit payable under a life policy or a unit trust the amount of which is determined by reference to -
 - (i) the value of property of any description (whether specified or not);
 - (ii) fluctuations in the value of any such property;
 - (iii) income from any such property; or
 - (iv) fluctuations in an index of the value of any such property;
 - “**pension contract**” means a personal pension scheme, a self-employed deferred annuity (as defined in Part I of Schedule 3 to these Rules) or an occupational pension scheme which provides for the payment of an additional contribution as mentioned in paragraph 15(b) of Part I of that Schedule;
 - “**personal pension scheme**” has the meaning given in paragraph 14 of Part I of Schedule 3 to these Rules;
 - “**policy**” includes a contract of assurance offered or made by a friendly society where a policy evidencing the contract is not issued, and references in this Part to the issuing of a policy shall, in such a case, be construed as references to the making of the contract;
 - “**professional investor**” has the meaning given by paragraph (5) below;
 - “**projection**” and “**projection date**” have the meanings given by Rule 5.3;
 - “**projection tables**” means such tables as may be for the time being prescribed as projection tables by the Board for the purposes of this Part, and, in relation to an investment contract of any class, a projection table is appropriate if it is prescribed by the Board as being appropriate to investment contracts of that class;

“protected rights annuity”, in relation to a personal pension scheme, means the annuity for which the scheme provides (or would provide, where the investor is not a member of the scheme) in order to give effect to the investor’s protected rights; and in relation to any such annuity, expressions used in this Part of these Rules and in Schedule 1 to the Social Security Act 1986 shall have the same meanings for the purposes of this Part as they have for the purposes of that Schedule;

“retirement fund”, in relation to any investment contract, means the amount which will be available under the contract, at the date on which the investor retires, for the provision of benefits;

“surrender value” has the meaning given by Rule 5.3(4);

“term assurance” means any long term insurance contract which is a contract of insurance on human life under which no benefit is payable (by virtue of any express or implied provision) except -

- (a) on the death within a specified period of a person whose life is insured under the contract; or
- (b) on the death within a specified period of such a person during or after the lifetime of another specified person, or the lifetimes of other specified persons as the case may be,

but disregarding for this purpose any benefit payable on surrender;

“unit trust” means an authorised unit trust or a collective investment scheme recognised by virtue of section 86, 87 or 88 of the 1986 Act;

“unit trust savings scheme” means an agreement or arrangement under which an investor purchases units in a unit trust at intervals laid down in the agreement or arrangement for amounts of money which, under the agreement or arrangement, the investor is to invest in the unit trust at those intervals; and

“whole life assurance” means a contract of insurance which, disregarding any benefit payable on surrender, secures a capital sum only on death or either on death or on disability, but does not include a term assurance.

- (3) Subject to any express provision to the contrary, references in the following provisions of this Part to an occupational pension scheme are references to an occupational pension scheme as defined in paragraph 11 of Part I of Schedule 3 to these Rules (including an annuity contract approved by virtue of section 591(2)(g) of the Income and Corporation Taxes Act 1988), other than an occupational pension scheme which provides for the payment of an additional contribution as mentioned in paragraph 15(b) of Part I of Schedule 3 to these Rules.
- (4) References in this Part to a **“premium”** (except in the expression **“the relevant premium”**), a **“single premium”** and a **“regular premium”** shall be construed in accordance with paragraph 18 of Part I of Schedule 3 to these Rules.
- (5) In this Part **“professional investor”**, in relation to any services provided by a Member, means a person who carries on investment business (including a person treated as carrying on investment business by virtue of section 191 of the 1986 Act) and for whom those services are provided in the course of his carrying on that investment business.
- (6) Where a member and an investor enter into more than one investment contract on the same day and the terms of all the contracts are identical, or a company representative or an independent intermediary recommends that an investor should enter into a number of identical investment contracts on the same day with the same Member, any provision of this Part requiring or permitting any projection, information or notice to be given to the investor shall be taken to be complied with in relation to all the contracts if the projection, information or notice is given (in accordance with the provision in question) in relation to any one of them or if it is given in relation to a notional contract the premiums payable under which are equal to the aggregate of the premiums payable under all the contracts and the benefits under which are equal to the benefits under them all, correspondingly aggregated (the other terms being the same as in the individual contracts).

- (5) References in this Part to the “**maturity date**” are references -
- (a) in relation to an endowment type assurance, to the date specified in the assurance as the maturity date;
 - (b) in relation to a pension contract, to the vesting date of the annuity payable under the contract or, if no vesting date for the annuity is specified in the contract, the date specified in relation to the annuity as the retirement date by the Member in the projection in question, being a date not earlier than the earliest date on which the annuity could vest and not later than the latest such date.

Restrictions on the issuing of certain projections

- 5.4. (1) A Member shall not issue a projection which relates to any benefit payable under any investment contract unless the contract is-
- (a) a whole life assurance, endowment type assurance or term assurance;
 - (b) a pension contract;
 - (c) a unit trust;
 - (d) a Holloway sickness policy under which any surplus is accumulated at compound interest;
 - (e) for an immediate annuity;

or unless the projection is of the surrender value of the contract on each of the **first** five anniversaries of the commencement of the contract (or so many of them as fall before the maturity date or projection date), or it is given in accordance with Rule 5.12.

- (2) A projection given to an investor by a company representative shall be given or **confirmed** in writing and, except where the projection is of a benefit under a contract which is proposed but not in fact made, a record of the projection shall be kept by the Member for at least 3 years.

General provisions relating to the giving of projections and surrender values

- 5.5. (1) Subject to the provisions of this Part, a projection relating to any future benefit payable under an investment contract may be issued by the Member to an investor at any time.
- (2) Where a company representative -
- (a) recommends an investment contract to an investor in any case where the investor’s primary object in entering into the contract is to acquire a specified sum of money on a specified date, a specified sum of money on death or an annuity of a specified amount payable as **from** a specified date, and
 - (b) gives a projection to the investor of the sum or annuity which would be payable under the contract on that date which is calculated by reference **to** a rate of return other than a rate of return **specified** in Part III of Schedule 4 to these Rules for contracts of the same class,

the Member shall ensure that, at the same time or as soon as is reasonably practicable thereafter, the investor is provided with projections of the sum or annuity payable under the contract on that date calculated in accordance with Rule 5.7 or 5.8, by reference to the rate of return specified for contracts of that class in Part III of Schedule 4.

The Member shall ensure that each projection given as mentioned in paragraph(b) above is calculated by reference to a rate of return which does not exceed the higher of the rates specified for contracts of the class in question in Part III of Schedule 4, but subject to that, any rate of return which does not fall short of or exceed by more than .3% the actual rate of return required to produce the sum or annuity quoted may be used.

- (3) Where a company representative recommends an investment contract which is an appropriate personal pension scheme to an investor the Member shall ensure that a projection relating to any protected rights annuity is given to the investor at that time or as soon as is reasonably practicable thereafter.
- (4) Subject to paragraph (9) below, when a company representative recommends an investment contract (as respects which there is a surrender value) to an investor who is not a professional investor as being appropriate to him, or as soon as is reasonably practicable thereafter, the Member shall issue to the investor a projection of the surrender value of the contract on each of the first five anniversaries of the commencement of the contract (or so many of those anniversaries as fall before the maturity date or projection date) or, where the surrender values are guaranteed, a statement of those values; and
 - (a) for the purposes of this paragraph “**surrender value**” includes, in the case of a personal pension scheme, the value of any protected rights annuity the projections of which shall be given separately from any other projection, and in relation to any such projection, the reference above to the commencement of the contract shall be read as a reference to the date (whenever it may be) on which the first minimum contribution will be paid in respect of the investor; and
 - (b) if the surrender value is nil at each of the anniversaries, that fact shall be stated.

In calculating for the purposes of this paragraph the surrender value of a contract on a particular date, it shall be assumed that any premium payable on that date is payable on the following day.

- (5) Paragraph (4) above shall apply in relation to any recommendation to take any steps which would result in this Part applying, by virtue of Rule 5.11, to an existing contract as if it were a new contract, as if it were a recommendation of that new contract.
- (6) Paragraph (4) above does not apply in relation to benefits payable under an occupational pension scheme.
- (7) In any case where the projection in question is or is to be issued by a Member which is the marketing associate of the Member by which the contract in question is to be, or may be, issued, the latter shall provide the marketing associate with all the information required (and in sufficient time) to enable the associate to comply with the regulations under this Rule.
- (8) In any case where a projection is required to be given in accordance with paragraphs (3) and (4)(a) above of a protected rights annuity and it is intended that if the investor becomes a member of the scheme in question a transfer value will be paid into the scheme in respect of the investor, it shall be assumed-
 - (a) first, that the transfer value is a minimum contribution paid on the day when it would in fact be paid if the investor were to become a member of the scheme and that no other minimum contribution would be paid in respect of the investor in the income tax year in which that day falls; and

- (6) Paragraphs (1), (2) and (5) above do not apply where the cancellation notice is given in respect of a contract which constitutes a variation of an existing endowment type assurance, whole life assurance, term assurance or pension contract or of an existing unit trust savings scheme.

Calculation of projections

- 5.7. (1) Subject to Rule 5.8 and 5.9, a projection issued by a Member of any future benefit payable under an investment contract issued or which may be issued by the Member shall be calculated by reference to the relevant premium and in accordance with the appropriate projection table.
- (2) Subject to the following paragraph, in relation to a protected rights annuity, the relevant premium is such amount as may reasonably be estimated by the Member to be the amount which will be paid by the Secretary of State or the Department of Health and Social Services for Northern Ireland by way of **minimum** contributions in respect of the investor concerned for the income tax year in which the projection is made, less an amount equal to the policy fee applicable to the contract as specified in Part II of Schedule 4 to these Rules; and the projection shall be calculated on the assumption that the annuity in question increases in value at the annual rate of 3%.

In any case where a projection of a protected rights annuity under Rule 5.5 or 5.6 is calculated in accordance with Rule 5.5(8), the relevant premium in the case of the projection calculated by reference to a transfer value is that transfer value, and any policy fee shall (in the case of either projection) be deducted from that value and not from any minimum contribution.

A projection of a protected rights annuity for the income tax year immediately following that in which the projection is made may be made in accordance with the preceding provisions of this paragraph (with the substitution of a reference to the later year for the earlier) but only if the amount of the rebate percentage (within the meaning of section 3(1) of the Social Security Act 1986) for that later year has been published at the time the projection is made.

A projection of a protected rights annuity for the income tax year 1987-88 may be made in the year 1988-89 in accordance with the preceding provisions of this paragraph (substituting a reference to the year 1987-88 for the reference to the year in which the projection is made).

- (3) Subject to paragraph (2) above, in paragraph (1) above **“the relevant premium”** means -
- (a) where the contract in question is a policy or a pension contract, the actual premium payable, less the amounts specified in paragraph (4) below;
 - (b) where the contract in question is a unit trust savings scheme which is not a pension contract, the amount which under the scheme the investor is to invest in the scheme at the intervals specified in the scheme;
 - (c) where the contract in question is for the purchase of units in a unit trust which is not a unit trust savings scheme or a pension contract, the **amount** payable by the investor for those units.

The amounts referred to in paragraphs (b) and (c) above include the amount of any charge made by the manager of the unit trust in question.

- (4) The amounts referred to in paragraph (3)(a) above are the following -
 - (a) an amount equal to the cost of any rider benefits, calculated in accordance with paragraph 2(8) of Part I of Schedule 4 to these Rules;
 - (b) an amount equal to the policy fee applicable to the contract as specified in Part II of that Schedule;
 - (c) an amount equal to so much of the actual premium as represents any additional premium payable in respect of an exceptional mortality risk.
 - (5) A projection of any benefit, other than a protected rights annuity, payable under a contract the premiums payable under which are single premiums may be calculated as if those premiums were regular premiums but only if the Member is bound, unconditionally, by the express terms of the contract to accept all single premiums which may be paid by the investor under the contract.
 - (6) Where the projection of a future benefit under an investment contract other than a projection in real terms of a protected rights annuity payable under a personal pension scheme, as calculated in accordance with the appropriate table, is less than the amount guaranteed under the contract the projection shall be increased to that guaranteed amount.
 - (7) Where a projection is issued by a Member in any case falling within paragraphs (3)(a) and 4(a) or (c) above, the Member shall quote (with the projection) the sum of the actual amount of the relevant premium and the amount of any policy fee as determined in (4)(b) above.
 - (8) In Schedule 4 “**the relevant premium**” has the same meaning as it has for the purposes of this Rule.
- 5.8. (1) A projection permitted by Rule 5.5(1) or 5.6(1) for which none of the projection tables is appropriate shall be calculated in accordance with the principles set out in Schedule 4 to these Rules, and shall be rounded down to not more than three significant figures, and, in the case of a benefit (other than a protected rights annuity) payable under a contract the premiums payable under which are single premiums, it may be calculated as if those premiums were regular premiums but only if the Member is bound, unconditionally, by the express terms of the contract to accept all single premiums which may be paid by the investor under the contract.
- (2) Where the projection of a future benefit under an investment contract, as so calculated, other than a projection in real terms of a protected rights annuity payable under a personal pension scheme, is less than the amount guaranteed under the contract, the projection shall be increased to that guaranteed amount.
 - (3) A Member which offers investors any investment contract of any class, the projections for which are permitted by Rule 5.6(1) and required to be calculated in accordance with paragraph (1) above and the term of which exceeds five years, shall give notice to the Board that it does offer such contracts to investors, unless the Board has notified all Members that no projection table is appropriate for that class of contract.
 - (4) Nothing in this Rule shall be taken to prohibit the issuing of a projection in accordance with Rule 5.5(2) provided that, apart from the rate of return used in calculating the projection, the projection complies with the requirements of this Rule.

- (i) the references in sub-paragraph (d) to an investor included references to a member of the scheme; and
 - (ii) the reference in sub-paragraph (f) to a benefit was a reference to such specimen benefits as may be calculated from the premiums used in calculating the projections included in the notice in accordance with the preceding provisions of this paragraph.
- (2) Rule 5.6(5) shall not apply in relation to any such cancellation notice as is mentioned in paragraph (1) above but the Member may include in such a notice under the heading “ILLUSTRATIONS OF FUTURE RETURNS” projections of any specimen benefits referred to in paragraph(1)(b)(ii) above, and such projections shall comply with Rule 5.6(1) (disregarding Rule 5.6(4)).
- (3) In addition to the information required to be given under paragraph (1) above, the Member shall give a written statement or statements to the trustees or the employer containing such further information as may be necessary to enable the trustees or the employer to give to any person who becomes a member of the scheme such information as would have been required to be given to that person by the Member if the contract under which the benefits in question are payable were an appropriate personal pension scheme made between that person and the Member, and the Member may include in any such statement any other projection of a future benefit payable in accordance with the scheme calculated as if the contract under which the benefit is payable were an appropriate personal pension scheme made between the person to whom the benefit will be payable and the Member, but, for this purpose, in calculating any surrender value or retirement fund any premium payable in respect of a protected rights annuity shall be deemed to be paid in respect of an annuity which is not a protected rights annuity.
- (4) The Member shall ensure that the trustees or the employer, as the case may be, are given such further information as may be necessary to take account of any changes affecting the scheme which render the information previously given in pursuance of this Rule incorrect or inaccurate.
- (5) A Member may include in a cancellation notice given in respect of a money purchase contracted-out scheme or in the statement given in pursuance of paragraph (3) above a projection of the annuity for which the scheme provides in order to give effect to the protected rights of a member of the scheme calculated as if the relevant premium were paid into an appropriate personal pension scheme; and for the purposes of any such projection the relevant premium shall be -

103% of the amount of the minimum payments in respect of the scheme member for the income tax year in which the projection is made, less 103% of the amount of any applicable policy fee specified in Part II of Schedule 4 to these Rules.

A projection (calculated similarly) may also be included for the immediately following income tax year if the amount of the rebate percentage (within the meaning of section 30 of the Social Security Pensions Act 1975) for that later year has been published at the time the projection is given.

- (6) In any case where a transfer value may be paid into the scheme in respect of the scheme member, the projection under paragraph (5) above shall exclude so much of the value of the annuity as would be derived from any such transfer value, but a separate projection of so much of that value as would be so derived may be given, and for the purposes of any such projection it shall be assumed that no minimum payments would be paid in the income tax year for which the projection is given and that no policy fee is applicable to the annuity and that the transfer value is paid into an appropriate personal pension scheme.

- (7) Where a projection is given under this Rule of the total benefits of the scheme member and for the purposes of that projection an assumption regarding the size of future rebate percentages is required to be made, the Member shall use the latest assumption regarding the size of future rebate percentages published by the Government Actuary, and shall make it clear to the person to whom the projection is given that the projection is based on that latest published assumption.
- (8) Any expression used in paragraphs(5), (6) and (7) above and to which a meaning is given by section 66 of the Social Security Pensions Act 1975 shall also have that meaning in those paragraphs.
- (9) Any projection issued by the Member in pursuance of this Rule shall comply with such of the provisions of Rules 5.7, 5.8 , 5.9 and 5.11 as are applicable to the projection (subject to the provisions of this Rule) and Rules 5.6, 5.10 and 5.13 shall not apply to any such projection except as provided by this Rule.

Disclosure of product particulars, inflation and wording to accompany projections

- 5.13.** (1) A Member shall include, under the heading "PRODUCT PARTICULARS", in any cancellation notice given to an investor in respect of any of the Member's investment contracts the information relating to the contract required to be given to the investor by Rule 5.10.
- (2) A Member shall include or attach to any document containing projections issued by the Member the statement set out in Schedule 6 to these Rules which is applicable to the policy, subject to any modification permitted by the Notes to that Schedule.

This paragraph does not apply in relation to a projection of a protected rights annuity or to a projection given in compliance with Rule 5.5(4) or 5.6(2).

- (3) Any document containing a projection of a future benefit, other than a projection under Rule 5.5(2)(b), shall include or be accompanied by such of the statements set out in Schedule 5 to these Rules as are appropriate to that projection.
- (4) The statements set out in Sections I and II of Schedule 5 may be altered by the Member in any case where the Member considers that the wording in Schedule 5 is not wholly appropriate to the projection in question, but an alteration shall not be made in pursuance of this paragraph if its effect is, or is likely to be, to reduce the significance or impact of any other provision of this Part.

Where the figures given in a projection of a benefit payable under an investment contract at the time the contract is recommended to an investor differ from those given in a projection of the same benefit contained in the cancellation notice, the Member may include in any such statement the reasons for the difference.

- (5) Any document containing a projection given under Rule 5.5(2)(b) of a sum or annuity may include a description of the projection in such words as the Member may choose but the description may not be such as to detract from any projection given in accordance with Rule 5.7 or 5.8 of that sum or annuity or as to give the projection under Rule 5.5(2) greater significance than the other projection.
- (6) Paragraphs (1) and (2) above shall not apply where the cancellation notice is given in respect of a contract which constitutes a variation of an endowment type assurance, whole life assurance, term assurance or pension contract or of an existing unit trust savings scheme.

Disclosure of commission in cancellation notice

- 5.14.** (1) A Member shall include in any appropriate cancellation notice given to an investor in respect of any of the Member's investment contracts -
- (a) under the heading "COMMISSIONS", if commission is payable in respect of the contract to an independent intermediary (within the meaning of Part IV of these Rules) and the name of the Member is entered on the Lautro Maximum Commission Roll, a statement relating to the commission payable in respect of the contract in the form (appropriate to that contract) set out in paragraph 1 of Schedule 7 to these Rules;
 - (b) under the heading "COMMISSIONS", if commission is payable in respect of the contract to an independent intermediary (within the meaning of Part IV of these Rules) and the name of the Member is not entered on the Lautro Maximum Commission Roll, a statement relating to the commission payable in respect of the contract in the form (appropriate to that contract) set out in paragraph 2 of Schedule 7 to these Rules.
- (2) If the name of the Member is not entered on the Lautro Maximum Commission Roll and none of the forms set out in paragraph 2 of Schedule 7 is in the opinion of the Member appropriate to the contract, the Member may include in the notice a different statement relating to any commission payable to an independent intermediary but only with the written consent of the Board, which must be obtained in advance, to the wording and content of that different statement.
- (3) For the purposes of this Rule references in Schedule 7 to a unit trust include references to a unit trust savings scheme but not to a unit trust which constitutes a personal pension scheme.
- (4) On and after 1st January 1990 paragraphs (1) and (2) above shall have effect-
- (a) with the omission in paragraph (1) of sub-paragraph (a) and in sub-paragraph (b) of the words from "and the name" to "Roll", and
 - (b) with the omission in paragraph (2) of the words from "the name" to "Roll and".

Contracts to which the Financial Services (Cancellation) Rules 1987 do not apply

- 5.15.** (1) Subject to the following provisions of this paragraph, where an investment contract is made as respects which the Financial Services (Cancellation) Rules do not apply, the Member which issued the contract shall give the investor, at the time the contract is made or as soon as is reasonably practicable thereafter, a notice containing the information which would have been required to be given in or with a cancellation notice if those Rules had applied, by Rules 5.6(2), 5.10, and 5.14 of these Rules.
- (2) In the case of a contract to which Rule 5.2(1) or (3) applies, paragraph (1) above shall have effect with the omission of the reference to Rules 5.6(2) and 5.10.
- (3) Paragraph (1) above shall not apply in any case where the contract is made in consequence of the investor's response to a Category C advertisement (within the meaning of Chapter IV of Part VI of these Rules) unless commission is payable in respect of the contract to an independent intermediary, and, in such a case, paragraph (1) shall apply with the omission of the reference to Rules 5.6(2) and 5.10.
- (4) Paragraph (1) above shall not apply in any case where the investor concerned is a professional investor.
- (5) The references above to Rule 5.10 are references to that Rule as it applies by virtue of Rule 5.13(1).

Directions of the Board etc.

- 5.16.** (1) The Board may give directions to a Member as to the issuing of a projection of any future benefit payable under an investment contract in any case where it appears to the Board that the requirements of this Part relating to any such projection are inappropriate; and the Member shall comply with any such direction instead of such requirements of this Part as are specified in the direction.
- (2) A Member shall not issue a projection of any benefit under an investment contract to any person otherwise than in pursuance of this Part if it is a projection which if issued to a person who in relation to that contract was an investor would be subject to any requirement of this Part, unless the Board have given their written consent to the Member to the issuing of that projection to that person or to the issuing of projections of that class to such persons.

Share exchange transactions

- 5.17.** (1) The provisions of this Rule apply where-
- (a) an investor agrees to enter into an investment contract with a Member, and
 - (b) the first premium or other payment under that contract is to be found wholly or in part from the proceeds of the sale of any shares owned by the investor, and
 - (c) the Member agrees to sell those shares on behalf of the investor.
- (2) The Member shall disclose to the investor, before the contract referred to in paragraph (1)(a) above is made-
- (a) whether the investor will be charged for the Member's services in connection with the sale of the shares, and, if so, the basis on which the amount of the charge will be determined;
 - (b) if any fees will be payable to a stockbroker in connection with the sale (whether by the buyer or the seller), who will pay those fees;
 - (c) who will be liable for any duties or levies payable in connection with the sale;
 - (d) the fact that capital gains tax may be payable in respect of the sale of the shares and that, if all the proceeds of the sale will be applied in paying amounts due under the contract referred to in paragraph (1)(a) above, the investor will have to satisfy any capital gains tax liability from other sources; and
 - (e) the date on which the proceeds of the sale of the shares are to be applied as mentioned in sub-paragraph (d) above.
- (3) The Member shall account to the investor, at the time the contract referred to in paragraph (1)(a) above is made, or as soon as is reasonably practicable thereafter, for the proceeds of the sale of the shares, giving details in particular of any deductions made on account of stockbrokers' fees, duties or levies and fees payable to the Member.

- 5.18.** (1) The provisions of this Rule apply where-
- (a) an investor agrees to enter into an investment contract with a Member, and
 - (b) the first premium or other payment under that contract is to be found wholly or in part from the proceeds of the sale of any shares owned by the investor, and

**PART VI
ADVERTISEMENTS**

**CHAPTER I
GENERAL PROVISIONS**

Interpretation

- 6.1. Rule 6.19 and, in their application to any advertisement other than -
- (a) an advertisement issued in a newspaper or periodical which is published once a week or more frequently, or
 - (b) an advertisement which is published by the medium of radio, television or film,
- Rules 6.2 to 6.18 and 6.20 to 6.22 shall come into force on 1st July 1988.
- 6.2. In this Part of these Rules, except where the context otherwise requires-
- “employee”**, in relation to a Member, includes any office holder of the Member, a company representative (whether employed under a contract of employment or not), an appointed representative of the Member, an employee or office holder of an appointed representative of the Member and an employee, office holder or appointed representative of a member of the same group as the Member (whether a marketing group or not), and references to employment shall be construed accordingly;
- “investment”** means an investment contract or a contract for the management of assets in so far as it relates to pension fund management falling within Class VII of Schedule 1 to the Insurance Companies Act 1982;
- and references to a **“signature”** (however expressed) do not include references to a facsimile signature.
- 6.3. (1) In this Part of these Rules, unless the context otherwise requires -
- (a) a reference to an advertisement, in relation to a Member, is to any advertisement which the Member issues or causes to be issued other than an advertisement-
 - (i) which refers, whether directly or indirectly, to any business or part of any business, or to any goods or services which the Member supplies in the course of any business, which is not, or is not part of, the Member’s relevant investment business, but does not refer, whether directly or indirectly, to the Member’s relevant investment business or to any part of that business or to any investment which the Member sells in the course of his relevant investment business;
 - (ii) which is a signed letter addressed to a particular individual which suggests or may reasonably be taken to suggest that a particular investment contract is suitable for that individual;
 - (iii) which only advises any investors to exercise an option under an investment contract; or
 - (iv) which constitutes a personal quotation form.
 - (b) a reference to an advertisement is a reference to any kind of advertisement, including, in particular, an advertisement which is, or forms part of, any publication, notice, poster, sign, label, showcard, circular, catalogue, price list or other document, picture, film, radio or television programme or any other kind of recording; and
 - (c) a reference to the issue of an advertisement includes any form of issue or publication; whether to the public at large or to individuals or to groups, but does not include the issuing or publishing of an advertisement to an employee of the Member concerned in his capacity, and in the course of his employment, as such employee;

and in relation to an advertisement a reference to the Member is a reference to the Member who issued it or caused it to be issued.

- (2) This Part of these Rules shall apply in relation to any material issued as one package by direct-mail as if the package taken as a whole constituted one advertisement.
- (3) For the purposes of this Part of these Rules the question whether an advertisement or any part of an advertisement is misleading may be determined by reference to matters of fact or opinion or forecasts which have been omitted from the advertisement as well as by reference to the content and form of the advertisement, the context in which it is issued, the general impression which it creates and the likelihood of any person being misled by, or by any part of, the advertisement.

Obligations of Members

- 6.4.** (1) A Member shall not issue or cause to be issued an advertisement which does not comply with the following requirements of these Rules.
- (2) In a case where the Member has caused an advertisement to be issued which does not comply with this Part of these Rules, the Member shall not be in breach of paragraph (1) above if, had the advertisement been issued immediately before the time when it ceased to be reasonably practicable for him to stop the issue, the Member would not have been in breach of that Rule.

CHAPTER II RULES APPLYING TO ALL ADVERTISEMENTS

Advertisements to be clear and not misleading

- 6.5.** The requirements of this Chapter apply in relation to any advertisement which a Member issues or causes to be issued, and an advertisement to which this Chapter applies, but Chapters III and IV of these Rules do not, may be referred to as a “**Category A advertisement**”.
- 6.6.** (1) The advertisement shall not contain -
- (a) a statement, promise or forecast which is untrue or misleading;
 - (b) a statement of fact which the Member does not at the time the advertisement is issued have reasonable grounds for believing to be true;
 - (c) a statement of opinion held by any person (whether the Member or any other person) which the Member does not at the time the advertisement is issued have reasonable grounds for believing to be the honestly held opinion of that person at that time;
 - (d) a statement of fact which the Member does not at the time the advertisement is issued have reasonable grounds for believing will continue to be true for so long as it remains relevant to the subject-matter of the advertisement;
 - (e) a statement relating the scale of activities of, or any of the activities of, or the resources of or available to, the Member or the Member’s group which is misleading.

SCHEDULE 2

CODE OF CONDUCT FOR MEMBERS AND COMPANY REPRESENTATIVES

Policy of Code

1. (1) This Code of Conduct is made for the purpose of ensuring that Members and their company representatives, in the course of carrying on any relevant investment business -
 - (a) maintain high standards of integrity and fair dealing, in particular in relation to investors;
 - (b) exercise due skill, care and diligence in providing any services in the course of that business; and
 - (c) generally take proper account of the interests of investors;and this Code shall be so construed as to give effect to that purpose.
- (2) In this Code, in relation to a company representative, "**the Member**" means the Member or Members for whom the company representative acts as such, and "**the marketing group**" means the marketing group to which the Member belongs.

General principle of fair dealing

2. A company representative shall exercise due skill, care and diligence in his business dealings and shall deal fairly with investors.

Meetings with investors

3. (1) A company representative shall on making contact for the first time with an investor and again at any time when asked to do so -
 - (a) identify himself as being a company representative; and
 - (b) state the name of the Member.If at the time of his first contact with the investor the company representative is not acting as such but at any later time he begins so to act in relation to that investor, this sub-paragraph shall apply at that later time as if it were the first time the contact had been made.
- (2) On meeting an investor, a company representative shall give him a business card which complies with paragraph 4 below, unless he has given him such a card at a previous meeting.
- (3) A company representative, when making a call, whether in person or by telephone and whether solicited or not -
 - (a) at the beginning of the call -
 - (i) shall state the genuine purpose or purposes of the call, and
 - (ii) if the time or place of call were not previously agreed by the investor, shall ascertain whether or not the investor wishes him to proceed and if the investor does not wish him to, he shall not (but he may ask for another appointment);

- (b) explain that the contracts the sale of which he is authorised to arrange or procure, and as to the merits of which he may advise investors, are those offered by the Member whose company representative he is or by other members of the same marketing group, and no others;
- (c) shall not make any statement material to the purpose of the call which he knows or ought reasonably to know to be untrue, or partly untrue or exaggerated or which is likely to diminish the significance or impact of anything which is required (whether by virtue of these Rules or otherwise) to be disclosed to the investor (whether by the representative or any other person);
- (d) shall recognise and respect, promptly and courteously, the right of the investor to terminate the call at any time; and
- (e) if he asks for another appointment and the investor refuses, shall accept that refusal courteously and in such a manner as to cause no embarrassment.

Paragraph (a)(i) above shall not apply if the investor had previously agreed to the call being made for that purpose or purposes, and paragraph (b) shall not apply if the investor has received that explanation on a previous occasion and may reasonably be expected to realise that the representative's position is unchanged.

- (4) A company representative shall ensure that an investor with whom he has an appointment (whether the appointment was arranged in writing or not and whether it is for a meeting or a telephone call) is given a contact point where the investor may without undue difficulty cancel or rearrange the appointment.
- (5) A company representative shall not make an unsolicited call on an investor-
 - (a) at an unsocial hour unless the investor has previously purchased an investment contract, or a contract of insurance which is not an investment contract, from the Member and has agreed to calls being made on him at that hour; or
 - (b) on an unlisted telephone number unless the investor has previously purchased an investment contract, or a contract of insurance which is not an investment contract, from the Member and has agreed to such calls being made to him on that number.
- (6) In this paragraph "investor" includes an employee of an investor or other person acting on behalf of an investor.

Business stationery etc.

- 4 (1) A business card, or any other business stationery, used by a company representative shall -
 - (a) state the name of the company representative;
 - (b) state prominently the name of the Member whose company representative he is or the name of the marketing group to which that Member belongs;
 - (c) indicate that the Member is a Member of Lautro or, if the name of the marketing group is given, any member of which is an authorised person by virtue of an authorisation granted by the Securities and Investments Board under section 27 of the 1986 Act, indicate that fact (logos of the organisations being sufficient for the purpose);
 - (d) give the address and telephone number of the branch or office of the Member to which he reports or, if he is an employee of an appointed representative, the name, address and telephone number of that appointed representative.

- (2) Business stationery used by a company representative shall be so designed that any reasonable person would on reading it receive the impression that the company representative is a company representative of the Member and is not independent.
5. A company representative shall not, in the course of any relevant investment business, use any written material which has not been authorised for use in that business by the Member

Best advice to be given

6. A company representative who, in the course of any relevant investment business, has dealings with an investor -
- (a) shall give the investor all information relevant to those dealings and that information shall in particular include the information required to be disclosed in such dealings by Part V of these Rules;
 - (b) shall not complete an application form, in whole or in part, for the purchase of an investment contract by the investor unless the investor has asked him to do so, and where the representative does complete the form, in whole or in part, for the investor, he shall ask the investor to check that what he has written is correct and ensure that the investor reads the form through before signing it;
 - (c) shall not make inaccurate or unfair criticisms of other investment contracts or of any other method of saving or investment, or of any occupational pension scheme or the State earnings-related pension scheme or of any arrangement for the repayment of a loan which does not involve an investment contract;
 - (d) shall not claim to have obtained the investor's name from another person without that person's consent, and shall disclose that person's name if requested by the investor so to do;
 - (e) shall not advise the investor to convert, cancel or allow to lapse any investment contract or realise any investment under an investment contract unless the representative has previously -
 - (i) except where the advice relates solely to switching investments between unit trust schemes or between two single premium life assurance policies, or two single premium pension schemes the benefits under which are or include linked benefits (within the meaning of Rule 5.1(2)), made a comprehensive study of the investor's need to make any investment and of his financial resources; and
 - (ii) disclosed to the investor all relevant consequences and disadvantages likely to follow from the action advised including in particular the loss of Life Assurance Premium Relief (that is to say, relief given under section 226 of the Income and Corporation Taxes Act 1988);

and the representative shall not in any event advise the taking of such action unless he bona fide believes it to be in the interests of the investor.

Sub-paragraph (e) above shall apply in relation to an individual's giving up any rights under an occupational pension scheme or the State earnings-related pension scheme as it applies in relation to the conversion, cancellation or lapsing of an investment contract.

7. A company representative shall not advise an investor on the purchase of any investment contract unless he is authorised by the Member to sell that contract or on any matter unless he is competent to advise on that matter.

8. (1) A company representative shall, in advising an investor as to the suitability for that investor of any investment contract, have regard, in particular, to the investor's financial position generally, to any rights he may have under an occupational pension scheme or the State earnings-related pension scheme, (if such rights are relevant in the particular case) and to all other relevant circumstances; and he shall use his best endeavours to ensure -
- (a) that he recommends only that contract or those contracts which are suited to that investor; and
 - (b) that there is no other contract available from the Member, or, if the Member belongs to a marketing group, from any member of that group which would secure the investor's objectives more advantageously.

Sub-paragraphs (a) and (b) above shall not apply in any case to which paragraph 13 (4)(b) applies.

- (2) If the company representative considers that an investment contract offered by the Member or by another member of the same marketing group which he himself is not authorised to sell ought to be recommended to the investor in pursuance of sub-paragraph (1) above, he shall refer the investor to a company representative who is authorised to sell that contract or, if the member of the marketing group which is offering that contract for sale is not a Member of *Lautro*, to that member.
- (3) In sub-paragraphs (1)(b) and (2) above references to an investment contract do not include references to an investment contract -
 - (a) which is a contract of insurance as respects which the advantage stems from the fact that the proposal form for the policy requires less information to be given by the proposer than the proposal form for another policy or that a medical examination is not a condition precedent for the issue of that policy but is for another; or
 - (b) which is only available, or is only available on terms which are more advantageous to investors than other similar or comparable investment contracts -
 - (i) through an independent intermediary or company representative who is offering to forgo payment of part of his commission or remuneration on the sale of the contract so as to reduce to the investor the cost of purchasing the contract by an amount which on an actuarial calculation is equivalent to the amount of commission or remuneration foregone;
 - (ii) to an individual who is an employee, appointed representative or employee of an appointed representative of the Member, or if the Member belongs to a group or a marketing group, of any body corporate belonging to that group or that marketing group, or a close relative of such an individual; or
 - (c) which is of a class which the Member offers for sale through company representatives but which is available otherwise than through a company representative and differs in one or more of its terms from those contracts of the same class which the Member offers for sale through company representatives.
- (4) Where the investor refuses to buy an investment contract recommended to him by a company representative in accordance with paragraph (1) above, the company representative may proceed to recommend another contract, and shall not be taken to be in breach of his duty under that paragraph in relation to that other contract by reason only that the first contract would be more suited, or more advantageous, to the investor.

This paragraph shall not apply if a period of time elapses between the two recommendations such that the second can reasonably be regarded as not being made in consequence of the investor's refusal of the first.

- (5) Paragraph (3)(b)(ii) above shall not apply where the company representative has reasonable grounds for believing that the investor is such an individual as is mentioned therein.
- (6) In any case where a company representative sells an industrial assurance policy to an investor and a comparable policy which was not an industrial assurance policy was available from the Member at that time which would not have secured the investor's objectives less advantageously, the company representative shall give the Member notice of the reasons for the sale of the industrial assurance policy rather than the other comparable policy.

Confidentiality and record keeping

9. A company representative shall treat all information given to him by an investor as confidential, but this paragraph shall not prohibit the passing of information from a company representative to the Member.
10. A company representative shall -
 - (a) keep a record in the form required by the Member of all transactions with investors which involve the transmission of money; and
 - (b) keep such other records as the Member may require of his dealings with investors;and such records shall be kept for such period as the Member may specify.
11. A company representative shall acknowledge in writing receipt of all money (other than cheques) received from an investor and shall forward promptly to the Member all money due from him to the Member.

General duty to make all relevant enquiries

12. A company representative shall so far as practicable ascertain all details relating to an investor and his particular circumstances as may be required for the purpose of complying with any duty in this Code or to enable the Member to comply with any requirement of these Rules.

Restriction on taking part in certain business

13. (1) A person who is at any time a company representative shall not also at that time be an independent intermediary or otherwise act in any connection in the sale, or the procuring of the sale, of any investment contract offered for sale by any person who is neither a Member of Lautro nor a member of a marketing group.
- (2) A company representative may act for more than one Member provided that all the Members for which he acts as company representative are members of the same marketing group and, as company representative of a Member which belongs to a marketing group, may act for other members of the marketing group whether or not they are Members of Lautro.
- (3) A company representative shall not accept remuneration in respect of any investment contract which was made before the date on which his current appointment began by any body which is or is eligible to be a Member (other than the Member whose company representative he is or any member of the same marketing group)-

- (a) in the case of a defined benefits scheme (within the meaning of Rule 5.2(1)) by reference to any increase in premium above the premium payable immediately before that date or, if later, 1st July 1988;
 - (b) in any other case, by reference to any increase in premium payable by virtue of any alteration made after that date in the terms of the contract or by virtue of the exercise, of an option after that date or, if later, 1st July 1988.
- (4) Paragraph (1) above shall not prevent a company representative from referring an investor to an independent intermediary or receiving remuneration from that intermediary for that reference, if -
- (a) that investor requires an investment contract of a particular class and that requirement cannot be satisfied by any investment contract available from the Member or any member of the marketing group;
 - (b) on the vesting of a pension contract the investor requires advice on the purchase of an annuity on open market terms;
 - (c) the investor wishes to invest a lump sum and the representative considers that part (but not the whole) of that sum should be invested otherwise than in contracts available from the Member or members of the same marketing group;
- but nothing in this paragraph shall be taken as permitting the representative to do anything further after making such a reference.
- (5) A company representative shall not make any payment to an independent intermediary otherwise than as agent for the Member or another member of the same marketing group.
- (6) Sub-paragraph (1) above shall not prevent a company representative from acting in connection with the sale of an investment contract on an execution-only basis, and a company representative may be remunerated in respect of such a sale whenever the contract was made (notwithstanding sub-paragraph (3) above).

