

PART I

GENERAL PROVISIONS

1.1. These Rules may be cited as the Lautro Rules 1987 and, except in so far as provision to the contrary is made by these Rules, shall come into force on [date]

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 ;

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

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

"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 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

"relevant investment business", in relation to any person, means any business carried on by that person relating to the marketing of investments falling within paragraph 6 or 10 of Part I of Schedule 1 to the 1986 Act or of business which is investment business by virtue of paragraph 14 of Part II of that Schedule.

- (2) For the purposes of these Rules, Schedule 1 to the 1986 Act shall have effect with the omission of Note 1 to paragraph 10.
- (3) Subject to paragraph (5) below, bodies corporate which are members of a group of which at least one is a Member of Lautro (but excluding any body corporate which is not eligible for membership of Lautro) shall be treated as a marketing group for the purposes of the Lautro Rules.
- (4) Two or more Members which are not all members of the same group may jointly apply in writing for recognition as a marketing group and if the Board is satisfied that, in relation to the relevant investment business of each applicant, the applicants share a common management and sales force, market their investment contracts in conjunction with each other and present themselves to the public as a single marketing unit, the Board may recognise them as a marketing group.
- (5) The Board may rule, on an application made jointly in writing in that behalf by the members of a marketing group (other than a body corporate which is not eligible for membership of Lautro), that for the purposes of the Lautro Rules, either -

- (a) none of them should be treated as constituting a marketing group; or
- (b) they should be treated as constituting such marketing groups as the Board may specify in its ruling on the application; or
- (c) some of them should not be treated as constituting a marketing group but that others of them should be treated as constituting one or more marketing groups;

and, where such a ruling is given, references in the Lautro Rules to a marketing group shall be construed accordingly.

- (6) In determining whether any applicant should or should not be treated as a member of a marketing group, the Board shall have regard to the following considerations -
 - (a) where the applicants are all members of a group, those applicants who, as respects their relevant business, fulfil all the following criteria shall be treated as not constituting a marketing group -
 - (i) that the operational management, strategic planning and investment management of an applicant is separate from that of the other applicants;
 - (ii) that an applicant is in competition with the other applicants and that competition is not restricted in any way by its membership of the group; and
 - (iii) that an applicant does not present itself to the public together with any other member of the group as a single marketing group;
 - (b) where the applicants are not all members of a group, those applicants who, as respects their relevant investment business, do not share a common management and sales force, market their investment contracts in conjunction with each other and present themselves to the public as a single marketing group, shall be treated as not constituting a marketing group.
- (7) The Board may revoke any recognition granted or ruling given under paragraph (4) or (5) above after giving the Members concerned an opportunity to make representations to the Board.
- (8) The Board shall give notice to the Members concerned of the Board's decision under paragraph (4) or (5) above or of any revocation under paragraph (7); and those Members may appeal to the Appeal Tribunal against the Board's decision to refuse their application or, as the case may be, to revoke any recognition or ruling.

Confidentiality of information

- 1.3. Information relating to any person or business which is obtained in pursuance of any of the Lautro Rules or for the purposes of any proceedings under Part VII of these Rules shall be treated by the person obtaining it as confidential; but this Rule shall not prohibit the disclosure of information, other than a medical report -
- (a) for the purposes of any proceedings under those Rules;
 - (b) to the Secretary of State, the Chief Registrar of Friendly Societies, the Registrar of Friendly Societies for Northern Ireland, the Securities and Investments Board Limited, any other self-regulating organisation or any recognised professional body for the purposes of any of their functions under any enactment or under any orders, rules or regulations or other instrument made under any enactment;
 - (c) for the purposes of any investigation or inquiry or other proceedings under any other Act relating to any business carried on by any Member of Lautro;
 - (d) for the purposes of any criminal proceedings, including investigations for the purpose of determining whether to institute any criminal proceedings;
 - (e) in a report made in pursuance of Rule 7.18(6).

Force majeure

- 1.4. (1) If any event happens or any circumstances arise which make it impossible or impractical for a Member to comply with any obligation imposed on it by these Rules, the Member shall forthwith give notice to the Board of that event or those circumstances and specify what steps (if any can be taken) the Member proposes to take to deal with the emergency.
- (2) If the Member gives notice to the Board under paragraph (1) above and the happening of the event or the arising of the circumstances was outside the control of the Member or of any associate of the Member or of any employee of the Member or of an associate of the Member, the Member shall not, so long as the emergency subsists and the Member is expeditiously taking all practicable steps available to it to relieve the emergency (whether specified in the notice or not), be regarded as being in breach of any of these Rules to the extent that in consequence of the emergency it has become impossible or impracticable to comply with that Rule.
- (3) In paragraph (2) above "associate", in relation to any Member, has the same meaning as in the Financial Services (Conduct of Business) Rules 1987, taking "firm" in those Rules as meaning the Member.

PART III
SELLING PRACTICES

General

- 3.1. This Part of these Rules shall come into force on [date].
- 3.2. In this Part of these Rules, unless the context otherwise requires -
“the **Code of Conduct**” means the Code of Conduct set out in Schedule 2 to these Rules;
“**company representative**”, in relation to any Member, means an individual-
- (i) who is appointed by the Member, or by a marketing associate of the Member or by an appointed representative of the Member, to procure the sale of the Member’s investment contracts to investors; and
 - (ii) who is so appointed to advise, and who does advise, investors (whether orally or in writing) on the merits of individual investment contracts; and
 - (iii) 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 if 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;

and references in this Part of 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;

“**independent intermediary**” has the meaning given by Rule 4.2;

“**investor**”, in relation to a Member or a company representative, means a person to whom advice is given about any of the Member’s investment contracts 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);

“**investment contract**” 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;

“**marketing associate**”, in relation to a Member, means a member of the same group as the Member (not being a member of Lautro) the business of which consists of or includes the marketing of the Member’s investment contracts but does not include the marketing of any investment contract of any body which is not a member of that group;

“**money**” includes cash, cheques, postal orders and stock and share certificates;

“**monitoring arrangements**” means the arrangements made in pursuance of Rule 3.4(3);

“**relevant investment business**” has the same meaning as in Rule 4.2.

Product bias

- 3.3. (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, including contracts also offered for sale directly by the Member or through an independent intermediary; 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, and including contracts also offered for sale directly by the member or through an independent intermediary.

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 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; and
 - (b) that the Member's investment contracts are only sold directly by the Member or by the Member's company representatives, appointed representatives or by independent intermediaries; and
 - (c) that the employees of the Member and of the Member's appointed representatives or marketing associates 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.
- (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) Without prejudice to the generality of paragraph (5) above, 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 not be taken to be in breach of paragraph(5) above by reason only that the amount payable to a company representative in respect of any investment contract differs from the amount payable to him 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.
- (8) A Member shall provide such particulars about the remuneration of its company representatives as the Board may from time to time require.
- (9) Paragraphs (5) to (8) above shall apply in relation to an appointed representative which is not an individual as they apply in relation to an individual, but this paragraph shall not affect the operation of those paragraphs in relation to any company representative who is an employee of such an appointed representative.
- (10) For the purposes of this Rule “remuneration” includes a benefit of any kind given, or which may be given, to 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 a company representative shall be treated as payable to the representative; and
 - (b) any benefit payable to a person on behalf of another person shall be treated as payable to that other person.
- (11) A Member shall ensure that none of its company representatives or appointed representatives 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 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.
- This paragraph shall not prevent a company representative from referring investors to an independent intermediary in accordance with paragraph13(4) of the Code of Conduct.
- (12) Without prejudice to paragraph (11) above, a Member shall ensure that none of its company representatives and no individual who is a director of any of its appointed representatives -
- (a) is in partnership with any other person who is-
 - (i) an independent intermediary; or

- (ii) a partner in another partnership one of the partners in which is an independent intermediary; or
 - (iii) a director of a company which is an independent intermediary; or
 - (iv) 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;
- (b) 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 -
- (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.

For the purposes of this paragraph, a person shall be taken to hold shares which are held either by any of his children under the age of 18 or on trust in any case where the trust property was transferred to the trustees by that person, and the definition of "director" in section 207 of the 1986 Act shall not apply.

Compliance with the Code of Conduct

- 3.4. (1)** The Member shall ensure that a person is not appointed as a company representative of that Member except on terms which impose on him a duty to act in the performance of his functions as a company representative in such a way as to comply with the Code of Conduct; and in this Part of these Rules-
- (a) references to a duty in the Code of Conduct are references to the duty imposed on him by the terms of his appointment corresponding to, or requiring him to comply with, that duty in the Code of Conduct;
 - (b) references to a representative complying with the Code of Conduct are references to his complying with the duty (or duties) imposed on him by the terms of his appointment to act in such a way as to comply with that Code.
- (2) Paragraph (1) above shall not prejudice the imposition of any other obligation which does not conflict with any of the provisions of the Code of Conduct.
- (3) The Member shall make arrangements (which, in a case where the Member is a member of a marketing group, may include arrangements with a company which is a member of that group, whether or not that company is also a Member of Lautro) for the monitoring of the performance of its company representatives to ensure that they comply with the Code of Conduct (in so far as it applies to them) and, in so far as those arrangements depend to any extent on the company representative doing or omitting to do anything, the Member shall ensure that the appropriate obligations are included in the representative's terms of appointment.

- (4) The Member shall -
- (a) ensure that its company representatives comply with the Code of Conduct (in so far as it applies to them); and
 - (b) ensure that it has, or the appointed representative or marketing associate (as the case may be) has, sufficient powers and sanctions available to it to enable it to require its company representatives (or employee) to comply with the Code of Conduct (in so far as it applies to them) and to take appropriate action in the event of any failure in that regard by any company representatives (or employee).
- (5) Disciplinary proceedings shall not be instituted under Part VII of these Rules against the Member in respect of a breach of the Code of Conduct by any company representative if the Member demonstrates to the satisfaction of the Board that it has taken all reasonably practicable steps to comply with paragraph (4) above.

Appointment, and termination of appointment, of company representatives

- 3.5. (1) A person shall not be appointed as a company representative of a Member unless the Member has first taken reasonable steps to satisfy itself that he is of good character and of the requisite aptitude and competence, and those steps shall, except where he is a company representative of another member of the same marketing group, include ascertaining whether there are any entries relating to him on the Lautro Register of Company Representatives and the taking up of references relating to character and experience.
- (2) A Member which receives an enquiry for a reference in respect of a person whom another Member or appointed representative is proposing to appoint shall make full and frank disclosure of all relevant matters which are believed to be true to the other Member or the representative.
- (3) The Member by which a company representative is appointed shall give notice to the Board of the appointment, and of the termination of that appointment; and any such notice shall be in the form prescribed by the Board and shall be given within 10 working days of that appointment or termination, as the case may be.
- (4) Where a company representative is appointed by an appointed representative of a Member, that appointed representative shall give notice to the Member of the appointment, and of the termination of that appointment, and the Member shall give notice to the Board within 10 working days of the appointment or termination.
- (5) Notice need not be given under paragraph (3) or (4) above by a Member which belongs to a marketing group if notice of the appointment in question, or of the termination of the appointment, has been given in accordance with that paragraph by another member of the group.
- (6) The Member shall not be obliged to give notice under paragraph (3) or (4) above in relation to the appointment or termination of the appointment of a company representative who -
- (a) is appointed only to sell friendly society policies, and

- (b) is not expected to receive by way of remuneration in respect of such sales more than £500 per annum;

but paragraph (3) or, as the case may be, (4) above shall apply if the individual does become entitled to receive more than £500 in any calendar year by way of such remuneration as if the day when the Member became aware that he was so entitled were the day on which he was appointed company representative.

- (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.'

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 or by independent intermediaries, and
 - (a) the Member shall require its company representatives 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.
 - (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) explaining that material facts are facts which an insurer would regard as likely to influence his decision whether or not to accept the proposal; and
 - (b) stating that the consequences of failing to disclose any material fact may result in the contract of insurance being ineffective, even if the proposal is accepted by the insurer; and
 - (c) stating that the proposer should disclose any fact if he is unsure whether or not it is material to the proposed insurance.
 - (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. A Member may enter into an investment contract in consequence of an unsolicited call, and company representatives may make unsolicited calls when acting in their capacity as such representatives.

Business letters etc.

- 3.9. (1) Any letter or official publication 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;
 - (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.
- (2) Paragraph (1) above does not apply to receipts, contract notes, acceptance letters, invoices, renewal notices, proposal forms and other policy documents, claim forms, loan agreements and bonus certificates, nor to anything which constitutes an advertisement to which Part VI of these Rules applies.

Complaints

- 3.10. (1) Where a complaint is made in writing to a Member relating to anything done or said or omitted to be done or said by one of the Member's company representatives in the course of advising on the merits of or selling any of the Member's investment contracts, the Member -

- (a) shall ensure that the complaint is investigated by an officer or employee of the Member and that the investigation is completed within a reasonable time; and
 - (b) shall, as soon as is reasonably practicable after receiving the complaint, notify the complainant in writing that if -
 - (i) after the expiry of the period of six months from the date on which he made the complaint, or
 - (ii) before the expiry of that period but after notice from the Member stating that the Member is of the opinion that no further progress can be made by the Member in settling the complaint,
 he is not satisfied with the results of the investigation, he may refer the matter to Lautro.
- (2) A person shall not investigate a complaint -
 - (a) if he was in any way directly concerned, otherwise than in a supervisory capacity, in the matter giving rise to the complaint; or
 - (b) unless, having regard to his status, experience and competence, he may reasonably be expected to carry out an adequate investigation.
 - (3) The person who investigates the complaint shall submit a written report on the matter to the Member.
 - (4) Sub-paragraph (1) above shall not apply where the Member to which the complaint is made is a friendly society.

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 no breach of 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.
- (2) A Member shall -
 - (a) where an investor has purchased an investment contract on the recommendation of a company representative and, in connection with that purchase and for any reason, has to the knowledge of the Member or the company representative concerned, cancelled, converted or allowed to lapse another investment contract, keep a record of the reason for that cancellation, conversion or lapse; and
 - (b) keep records relating to the persistency of business so far as that business consists of policies under which regular premiums are payable (within the meaning of Part I of Schedule 3 to these Rules) obtained through company representatives, and such records shall be kept by reference either to the company representative who obtained the business originally or (in the case of industrial assurance business) the company representative who collects the premiums, if different.

- (3) **A Member shall keep copies of each written complaint to which Rule 3.10(1) applies together with the report on the investigation into the complaint made to the Member under that Rule.**
- (4) **Where two or more complaints relate to the same company representative, the records shall be so kept that that fact is readily ascertainable.**
- (5) **A Member shall keep records of -**
 - (a) **training given to its company representatives and of examinations passed by those representatives relevant to their position as such; and**
 - (b) **the class or classes of investment contracts which each company representative or class of company representative is or are authorised to sell.**
- (6) **A Member shall keep copies of any references taken up at the time of a person's appointment as company representative, or, if the reference was given by telephone, a note of the reference, and of all other records relating to his appointment as such and to the termination of his appointment until the expiry of the period of 7 years following that termination.**
- (7) **A Member shall ensure that all records kept in pursuance of this Rule are kept in a readily accessible form.**
- (8) **Records kept in pursuance of paragraphs (1) to (3) above shall be kept for a minimum period of three years.**
- (9) **Records kept in pursuance of paragraph (5)(a) shall be kept at least until the end of the three year period which begins with the termination of the appointment of the company representative in question, and those kept in pursuance of paragraph (5)(b) shall be kept for a minimum period of three years.**
- (10) **In the case of a marketing group, the records required by paragraphs (5)(a) and (6) above need not be kept by every member of the group provided that at least one member (which is a Member of Lautro) keeps those records.**

Confidentiality

3.12. A Member shall treat all information which it receives in the course of its relevant investment business from an investor or which relates to an investor as confidential; but this Rule shall not prohibit the Member from disclosing information to Lautro or in so far as it may be necessary for the purpose of obtaining medical reports or reinsurance.

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 cancellation given in accordance with the Financial Services (Cancellation) Rules 1987;
 - “**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 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;
 - “**future benefit**” has the meaning given by Rule 5.3(3);
 - “**given**” includes sent;
 - “**Holloway sickness policy or scheme**” means a policy or scheme offered or issued by a friendly society under the Holloway system;
 - “**investor**” has the meaning given by Rule 3.2;
 - “**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 in the policy 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;
 - “**Member**”, in relation to any investment contract, means the Member offering or issuing the contract to an investor;
 - “**pension contract**” means a personal pension scheme, an occupational pension scheme or a self-employed deferred annuity (as defined in Part I of Schedule 3 to these Rules);
 - “**personal pension scheme**” has the meaning given in Part I of Schedule 3 to these Rules;
 - “**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 (or, as the case may be, the Northern Ireland equivalent provision) shall have the same meanings for the purposes of this Part as they have for the purposes of that Schedule (or equivalent provision);

“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 purchase of a pension;

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

“term insurance” has the meaning given by paragraph 4(1) of Part I of Schedule 3 to these Rules (disregarding paragraph 4(2) and (3));

“unit trust” means an authorised unit trust or a collective investment scheme recognised under section 86 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 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 this Part to an occupational pension scheme are references to an occupational pension scheme as defined in Part I of Schedule 3 to these Rules and to any agreement under which additional voluntary contributions (as so defined) may be made to such a scheme.
- (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.

Exclusion of certain investment contracts

- 5.2. (1) Nothing in this Part applies in relation to a defined benefit scheme, that is to say, an occupational pension scheme none of the principal benefits to which the members of the scheme are entitled under the scheme are money purchase benefits (within the meaning of the Social Security Pensions Act 1975) or in relation to any such benefits.
- (2) Rules 5.3 to 5.13 do not apply in relation to a contract to which the Financial Services (Cancellation) Rules 1987 do not apply (or, in the case of a proposed contract, would not apply if it were made).

Projections and surrender values

- 5.3. (1) References in this Part to a projection-
 - (a) are references to the amount of any future benefit payable under an investment contract, calculated in accordance with the provisions of these Rules, being a benefit the amount of which is not ascertainable under the terms of the contract when the calculation is made; and

- (b) where the appropriate tables or Schedule 4 to these Rules requires two or more projections to be calculated for any benefit, include references to each such projection.
- (2) In this Part -
- (a) **"the projection date"** means -
 - (i) in relation to a unit trust savings scheme, the tenth anniversary of the date on which the first purchase of units under the scheme was made;
 - (ii) in relation to units in a unit trust which is not a unit trust savings scheme, the tenth anniversary of the date on which those units were purchased;
 - (iii) in relation to a whole life assurance, the tenth anniversary of the commencement of the policy, and also, if it is a with-profits whole life assurance which commences before the person whose life is assured has reached the age of 60, the first anniversary of the commencement of the policy falling after he has reached the age of 75 (taking for this purpose, where there is more than one such person, the oldest if the benefits are payable on the death of the first of them to die, and the youngest in any other case);
 - (iv) in relation to a Holloway sickness policy or scheme, the date on which the sickness benefit will cease to be payable; and
 - (b) any reference to the issuing of a projection includes a reference to the publication of the projection in any form and by any means.
- (3) For the purposes of this Part, **"future benefit"** means-
- (a) where the contract is a whole life assurance, an endowment assurance or a Holloway sickness policy or scheme, the benefit payable on death, on survival to a specified date or on disability or on surrender in whole or in part of the contract;
 - (b) where the contract is a pension contract-
 - (i) the benefit payable on, or from survival to, a specified date;
 - (ii) any benefit payable on or from death, or
 - (iii) the amount payable on the transfer of the investor's accrued rights under the contract to another pension contract;
 - (c) in relation to units in a unit trust, means the cash value of those units.
- (4) In this Part **"surrender value"**, in relation to an investment contract, means-
- (a) where the contract is a contract of life assurance, the amount payable by the Member on the surrender of the policy evidencing the contract;

- (b) where the contract is a pension contract, the amount payable on the transfer of the investor's accrued rights under that contract to another pension contract;
- (c) where the contract is a Holloway sickness policy or scheme, the amount payable by the Member concerned on the surrender of the policy concerned on or before the projection date for the policy.

In this paragraph "**amount**" includes a nil amount.

- (5) References in this Part to the "**maturity date**" are references -
 - (a) in relation to an endowment 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 assurance or term assurance;
 - (b) a pension contract;
 - (c) a unit trust;
 - (d) a Holloway sickness policy or scheme under which any surplus is accumulated at compound interest.
- (2) A projection given to an investor by a company representative shall be given in writing and 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 the investor's primary object in entering into the contract is to acquire a specified sum of money on a specified date, and
 - (b) gives a projection to the investor of the sum 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 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 amount payable under the contract on that date calculated in accordance with Rules 5.7 to 5.9, by reference to the rate of return specified for contracts of that class in Schedule 4.

- (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 the protected rights annuity is given to the investor at that time or as soon as is reasonably practicable thereafter.
- (4) At the time when an investment contract (as respects which there is a surrender value) is recommended by one of the Member's company representatives to an 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 the protected rights annuity the projections of which shall be given separately from any other projection; and
 - (b) if the surrender value is nil at any of the anniversaries, that fact shall be stated.
- (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 other than benefits funded by additional voluntary contributions which are payable under an agreement which is separate from the occupational pension scheme.

Projections included in the cancellation notice

- 5.6. (1) Subject to paragraphs (2) and (3) below and to Rule 5.4, a cancellation notice relating to an investment contract given to an investor by a Member may include, under the heading "ILLUSTRATIONS OF FUTURE RETURNS" -
- (a) in the case of an endowment assurance, a projection of the benefit payable on survival to the maturity date;
 - (b) in the case of a pension contract, a projection of the retirement fund, or the benefit referred to in Rule 5.3(3)(b)(i), at the maturity date;
 - (c) in the case of a unit-linked whole life assurance, a projection of the surrender value as at the projection date or, if that value is nil, a statement of the period of time, from the commencement of the policy, on the elapse of which the surrender value becomes nil (and if that period is not a whole number of months or years, it may be rounded down to the nearest whole number of months or, as the Member may determine, years);

- (d) in the case of a with-profits whole life policy, a projection of the death benefit at the projection date, and for this purpose "death benefit" means the benefit payable under the policy on the death of the person whose life is assured (or, if there is more than one such person, any of them);
 - (e) in the case of units in a unit trust, the cash value of the units at the projection date;
 - (f) in the case of a Holloway sickness policy or scheme, the surrender value at the projection date;
 - (g) in the case of a personal pension scheme, in addition to and separate from any other projection required by any other provision of this paragraph, a projection of the annuity for which the scheme provides in order to give effect to the investor's protected rights at retirement age.
- (2) A cancellation notice relating to an investment contract (as respects which there is a surrender value) given to an investor by a Member shall include, under the heading "ILLUSTRATIONS OF PRODUCT PARTICULARS" -
- (a) 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; or
 - X (b) if ^{all} any of those values is nil, a statement of that fact.
- (3) For the purposes of paragraph (2) above "surrender value" includes, in the case of a personal pension scheme, the value of the protected rights annuity, the projection of which shall be given separately from any other projection.
- (4) Paragraph (2) above does not apply in relation to benefits payable under an occupational pension scheme other than benefits funded by additional voluntary contributions which are payable under an agreement which is separate from the occupational pension scheme.
- (5) A cancellation notice which does not include any projections in pursuance of paragraph (1) above shall contain the following statement, under the heading "ILLUSTRATIONS OF FUTURE RETURNS" -

"If you have been provided with a projection or other indication of the possible benefits under this contract, which was not confirmed in writing and stated to be in accordance with the rules prescribed by Lautro (the regulatory authority for the marketing of life assurance and unit trusts) please write to [.....]"*

*The Member shall insert here the address of the Member's administrative headquarters and the name of a responsible employee there to whom the investor should write.

Calculation of projections

- 5.7. (1) Subject to Rule 5.8, 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) 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%.
- (3) Subject to paragraph(2) above, in paragraph(1)above"the relevant premium" means -
- (a) where the contract in question is a life 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, 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, the amount payable by the investor for those units.
- (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(9) 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 basis on which any single premium (other than the first) may be paid is guaranteed under the contract.
- (6) Where the projection of a future benefit under an investment contract other than a projection in real terms of a benefit under a pension contract, 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 projections are issued by a Member in respect of any benefit payable under an investment contract one of which is wholly based on real rates of return and another of which assumes a monetary rate of return, the latter projection shall be given no greater prominence or emphasis than the former.
- 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.

- (2) Where the projection of a future benefit under an investment contract, as so calculated, other than a projection in real terms of a benefit under a pension contract, 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 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.
- 5.9. (1) A projection at any time of a surrender value of any investment contract required by Rule 5.5(4) or Rule 5.6(2) shall be calculated in accordance with the methods and by reference to the bases in general use by the Member at that time in calculating surrender values for contracts of the same class, subject to the following provisions of this Rule.
- (2) Where the methods and bases referred to in paragraph (1) above require explicit assumptions to be made relating to future reversionary bonuses, future terminal bonuses, future rates of return, future charges or future terms for commuting annuities -
 - (a) in the case of the surrender value of a with-profits policy or Holloway sickness policy or scheme, the following assumptions shall be made -
 - (i) that future reversionary bonuses and future terminal bonuses will continue to be declared at a rate no greater than the rate at which a bonus of that kind was last declared by the Member;
 - (ii) that future charges will be made at a rate no less than that at which similar charges are being made by the Member at the time the projection is made; and
 - (iii) that annuities will continue to be commuted on the terms no more favourable to an investor than those current at that time for commuting annuities; and
 - (b) in the case of the surrender value of a unit-linked policy or a personal pension scheme which comprises a unit-linked policy or a unit trust, the following assumptions shall be made-
 - (i) that future charges will be made at a rate no less than that at which similar charges are being made by the Member at that time; and
 - (ii) that the annual rate of return on assets (before all charges made by the Member), in the case of pension contracts and any policy forming part of the tax exempt business of a friendly society, will be 10.75% and in any other case will be 8.75%.

- (3) For the purposes of paragraph (2) above -
 - (a) references to charges made by a Member include references to charges made by the manager of any unit trust in which any funds of the policy in question are invested; and
 - (b) any charge which is the annual fund charge of a unit trust shall -
 - (i) first, be increased by an amount, equal to the amount of value added tax which is payable in respect of the charge; and
 - (ii) secondly, be reduced by an amount equal to the amount, if any, of income tax which would have been payable if an amount equal to the charge had been distributed to, and subject to tax as income of, the Member.
- (4) In calculating any projection in accordance with this Rule, the Member shall allow for partial surrenders of the policy in the case of a unit-linked whole life assurance where under the terms of the policy the investor is entitled to exercise and either has exercised or has expressed the intention of exercising an option from time to time effecting partial surrenders of the policy.
- (5) In calculating in accordance with paragraphs (1) to (4) above any projection required by Rule 5.5(4), a Member may use approximations but the projection given must nevertheless not exceed 105% of the amount which it would have been had it not been so calculated.

Information to be provided before contract entered into in certain cases

- 5.10. (1) In addition to any other information required to be given to any investor by the Member, the Member shall give the investor a written statement complying with the following provisions of this Rule at the time an investment contract to which, if made, the Financial Services (Cancellation) Rules 1987 would apply is recommended to the investor as being appropriate to him by any of the Member's company representatives, or as soon as is reasonably practicable thereafter.
- (2) The statement shall -
 - (a) if any benefit under the contract is a linked benefit -
 - (i) state that it is a linked benefit;
 - (ii) describe the property or index to which it is linked;
 - (iii) state how the amount of the benefit will be calculated and, if the amount of the benefit is linked to units in a unit trust or in an investment fund of an insurance company or to income from property of any kind where the price of units or the amount of any income distributions can go down as well as up, that fact shall be stated;
 - (iv) where the benefit is payable under a policy, state the nature and amount or rate of any charges which will be made on the investor (whether directly by the Member or indirectly by the manager of any unit trust in which any funds of the policy in question are invested) and what, if any, variations in the amount of those charges will or may take place before any benefits under the contract is payable (disregarding for this purpose any possibility that the funds to which the policy is linked may be changed at the option of the investor);

- (b) if the contract is a with-profits policy, state the basis on which the amount available for distribution and for allocating that amount to the policyholders and shareholders (if any);
- (c) specify -
 - (i) the amounts which any person other than the Member will pay under or for the purposes of the contract, including in particular the amount of any protected rights annuity;
 - (ii) if any such amount is not ascertainable at the time the statement is issued, the basis on which it will be determined and the frequency at which such amounts will have to be paid;

and shall also contain particulars of any terms of the contract under which the Member or the investor has power to vary those amounts or the frequency at which they are payable, together with a description of the treatment to be afforded to any increase in any such amount;

- (d) describe the investor's liability (if any) to income tax and capital gains tax (under the law of the United Kingdom as in force at the time the statement is issued) in respect of any amounts which may be paid to him under the contract;
- (e) indicate the nature of any tax which may be imposed (under that law) in respect of any assets of the Member which underly the contract;
- (f) state whether or not the investor can reclaim any such tax in any circumstances and that the law relating to taxation is always liable to be changed in the future, but that such changes cannot be foreseen;
- (g) except in the case of a unit trust, identify and specify the amount of any benefit the value of which is fixed at the commencement of the contract;
- (h) describe the consequences for the investor if at any time he or any person on his behalf stops making payments under the contract;
- (j) in the case of a unit trust, either contain or be accompanied by the scheme particulars or give the following information-
 - (i) the most recent difference between the bid and offer prices of the units expressed as a percentage of the offer price and also the difference between the minimum bid price permitted by the deed of trust which constitutes the unit trust and the maximum offer price so permitted expressed as a percentage of that maximum offer price or, if there is no such permitted maximum or minimum, a statement of the Member's discretion to vary the pricing basis of the units;
 - (ii) the amount of any charge which the investor will have to pay in connection with the contract, or if any such charge is not ascertainable at the time the statement is issued, the basis on which it will be determined, the frequency at which such charges will have to be paid, and details of any terms of the contract under which the Member has power to vary the amount of any such charge or the frequency at which it is payable;

add tax reliefs

- (iii) if income is not to be paid to the investor, whether the income will be reinvested by purchasing further units in the unit trust or will be reflected in the price of units;
 - (iv) if the income is to be paid to the investor, the current gross dividend yield based on the existing assets held by the unit trust to within 0.25%;
 - (v) the name of the trustee or custodian (if any) of the unit trust;
 - (vi) where and how copies of the scheme particulars may be obtained by the investor.
- (3) For the purposes of paragraph (2)(a) above, where the contract permits the investor to switch funds within the same contract, it shall be sufficient to describe the fund or funds or property into which the first premium will be invested, together with the name and telephone number of an individual whom the investor may contact for further information about other funds or property.
- (4) In addition to any information required to be given by paragraph (1) above, the Member shall give the investor such other information as may be necessary to enable him to understand the nature of the investment concerned and what it is that will determine the ultimate value of his investment.
- (5) Without prejudice to the generality of paragraph (4) above, where the progression of surrender values or the value of benefits payable under the contract at the maturity date contains a material discontinuity which is not approximately equal to the amount of a premium payable at the time the discontinuity will occur or to a payment of or on account of an annuity payable at that time, that fact shall be disclosed as part of the information to be provided in compliance with that paragraph (if it is not otherwise disclosed); and if the discontinuity relates only to the Member's current practice regarding surrender values or bonus rates, that fact shall also be disclosed together with a statement that that practice may change.

For the purposes of this paragraph the surrender value or other value shall be calculated on the assumption that current bonus rates and unit prices remain unchanged.

- (6) A Member shall not give a statement in compliance with paragraphs (1) to (5) above in a document -
- (a) which contains any other information which has the effect or is likely to have the effect of reducing the significance or impact of any of the information contained in the statement;
 - (b) which contains information relating to the past performance of any investment contract unless the document is an advertisement to which Part VI of these Rules applies.
- (7) Paragraph (1) above does not apply in relation to benefits payable under an occupational pension scheme other than benefits funded by additional voluntary contributions which are payable under an agreement which is separate from the occupational pension scheme.

Existing contracts

- 5.11. (1) Subject to the following provisions of this Rule, a Member may issue projections of benefits under an existing investment contract at any time.
- (2) In the case of an investment contract which is a whole life assurance or a pension contract under which single premiums were or are payable and under which regular premiums become payable, the provisions of these Rules relating to projections shall apply as if the contract were a new contract made at the time the investor's undertaking to make regular premiums becomes binding and under which only the benefits secured by those regular premiums are payable.
- (3) In any case where a term assurance is converted into a whole life or endowment policy, the provisions of this Part relating to projections shall apply as if the contract were a new contract commencing at the time the conversion is effected.
- X (4) A projection of a benefit payable under an investment contract given to an investor less than one year before the commencement date of the contract shall be calculated as if the contract were a new contract made on the date the projection is issued and on the same terms as the actual contract, except that account shall be taken of any alteration in the terms of the contract made at the request of the investor.
- (5) Subject to paragraph (4) above, a projection of a benefit under an existing investment contract shall comply with such of the principles set out in Schedule 4 to these Rules as are applicable to it; and where in any case the incidence of expenses (but not the overall level of expenses) allowed for in any surrender value at the date the projection is made does not reflect that of Part II of Schedule 4, the Member shall ensure that that fact is allowed for when applying the principles of Schedule 4.
- (6) A projection given in accordance with this Rule shall be rounded down to not more than 3 significant figures.
- (7) Where the Member has issued a projection of a benefit under a contract before the commencement of this Part of these Rules and after that commencement issues another projection of a benefit under that contract in accordance with this Part which differs in format from the earlier projection, the Member may explain the difference to the investor provided that the explanation is not likely to diminish the significance or impact of the later projection.

Occupational pension schemes

- 5.12. (1) The Member shall include in any cancellation notice given to the trustees of an occupational pension scheme any of the benefits payable under which are money purchase benefits, or to the employer concerned, projections of specimen surrender values; and in its application to any such cancellation notice, Rule 5.10(2) shall have effect as if -
- (a) the references in sub-paragraphs (d) and (f) to the investor included references to a member of the scheme; and
- (b) the reference in sub-paragraph (g) 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) In addition to the information required to be given under paragraph(1) above, the Member shall give a written statement 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 had been made between that person and the Member.
- (3) 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.
- (4) 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.
- (5) Nothing in this Rule shall be taken to prevent a Member from determining the maximum contribution allowed by the Inland Revenue rules, or from disclosing the assumptions used in calculating that contribution.

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, except in the case of an existing contract to which Rule 5.11(2) ~~and (3)~~ applies. X
- (2) A cancellation notice given in respect of a without-profits policy the benefits payable under which are not linked benefits shall include the statement set out in Schedule 6 to these Rules which is applicable to the policy, with any modification permitted by the Notes to that Schedule.
 - (3) Without prejudice to paragraph(2) above, a Member shall include or attach to any document containing projections issued by the Member none of which are wholly based on real rates of return 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).
- (4) Any document containing a projection of a future benefit shall include or be accompanied by such of the statements set out in Schedule 5 to these Rules as are appropriate to that projection.
 - (5) 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.

Disclosure of commission in cancellation notice

- 5.14. (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 -
- (a) if one of the Member's company representatives sold the contract to the investor, a statement of that fact;
 - (b) 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;
 - (c) 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 the commission payable 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.

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

- 5.15. (1) Subject to paragraphs (2) and (3) below, where an investment contract is made as respects which the Financial Services (Cancellation) Rules do not apply, the Member 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 which falls within Note 1 of paragraph 10 of Schedule 1 to the 1986 Act, 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 VII of these Rules).

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 stamp duty 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, stamp duty 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
 - (c) the Member agrees to buy those shares from the investor.
- (2) The Member shall before the contract referred to in paragraph (1)(a) above is made, disclose to the investor -
- (a) the basis on which the price for the shares will be determined, and, if the price is not to be determined by reference to an index maintained by a body or person independent of the Member, the Member shall not propose a basis which is unreasonable having regard to all the circumstances or which would produce a price which is less than that which would be obtained if instead of buying the shares the Member sold them for the investor in accordance with Rule 5.17;
 - (b) the fact that capital gains tax may be payable in respect of the sale of the shares and that, since 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
 - (c) the date on which the proceeds of the sale of the shares are to be applied as mentioned in sub-paragraph (b) above.
- (3) The Member shall account to the investor at the time the contract referred to in paragraph (1)(a) is made, or as soon as is reasonably practicable thereafter, for the proceeds of the sale of the shares.

- 5.19. (1) The sale or purchase of any shares at any time as mentioned in Rule 5.17 shall be effected by the Member on the best terms which would have been available had the same shares been sold or purchased on the open market at that time by a willing buyer and a willing seller each unconnected with the other; and the Member shall not purchase the shares from the investor, if it would have been more advantageous to the investor for the Member to have sold the shares on the investor's behalf.
- (2) For the purposes of this Rule, regard shall be had to all the terms of the sale or purchase.

**PART VI
ADVERTISEMENTS**

**CHAPTER I
GENERAL PROVISIONS**

Interpretation

- 6.1. This Part of these Rules shall come into force on [date]
- 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, 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 within the meaning of Rule 4.2 or a contract for the management of assets falling within paragraph 14 of Part II of Schedule 1 to the 1986 Act;
“relevant investment business” has the same meaning as in Rule 4.2; 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; or
 - (iii) which only advises any investors to exercise an option under an investment contract; or
 - (iv) which is issued as a press-release;
 - (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.
- (2) The advertisement shall not contain information about past performance or taxation unless it complies with the requirements set out in Rule 6.12(3)(a) to (d), 6.13 or 6.19, as the case may be.

- (3) The advertisement shall not be so designed as to content and format as to be likely to be misunderstood.
 - (4) The content, design or format of the advertisement shall not in any way disguise the significance of any statement or other matter required to be included in it by these Rules.
 - (5) The advertisement shall not be taken to satisfy the requirements of paragraph(1)(b) or (c) above unless, at the time of its issue, the Member is prepared to disclose documentary or other evidence of the grounds of his belief.
 - (6) The advertisement must be clearly identifiable as an advertisement, and not so presented that it appears to form part of a news item, report or bulletin, article, entertainment, story or play or any other kind of performance.
- 6.7. (1) The advertisement shall not contain any statement or implication that the subject-matter of the advertisement is approved by or otherwise endorsed by Lautro, the Securities and Investments Board or any government department.
- (2) Paragraph (1) above shall not apply in relation to any indication that an investment is recognised by the Inland Revenue for the purposes of any tax relief.
- 6.8. An advertisement which contains an invitation to apply for further information shall, if any such application may result in an approach being made to the applicant by telephone or personal visit, make that fact clear.
- 6.9. (1) The advertisement shall not quote anything said or written by any person, or include any statement purporting to represent the views of any person, unless-
- (a) if that person is an employee, or a close relative of an employee, of the Member the advertisement contains a statement of that fact;
 - (b) the consent of that person to the inclusion in the advertisement of the quotation or statement representing his views has been obtained and not withdrawn;
 - (c) the quotation or statement is relevant to the subject matter of the advertisement;
 - (d) the quotation or statement fairly represents the views of the person to whom the views are attributed;
 - (e) the quotation or statement, or its use in the advertisement, has not become inaccurate or misleading since it was first made or given.
- (2) Paragraph (1)(b) above shall not apply in any case where the quotation in question has already been published, otherwise than as part of an advertisement, and it is clear from the context of that earlier publication that the quotation can be used without the express consent of its originator.
- (3) In paragraph (1)(a) above "close relative" means, in relation to any person, that person's spouse, child, parent, brother or sister.

CHAPTER III

RULES APPLYING TO ADVERTISEMENTS WHICH IDENTIFY AND PROMOTE SPECIFIC INVESTMENTS

- 6.10.** (1) The requirements of this Chapter apply only in relation to an advertisement which identifies and promotes one or more particular investments; and these requirements are in addition to those of Chapter II.
- (2) The mere mentioning of the name of an investment, with or without its price, shall not of itself constitute the promotion of that investment.
- (3) An advertisement to which this Chapter applies, but to which Chapter IV does not apply, may be referred to as a "Category B advertisement".
- 6.11.** (1) The advertisement shall -
- (a) identify the Member which issued it or caused it to be issued and shall state that the Member is a Member of Lautro; and
- (b) show clearly the nature of the investment or investments which it advertises; and references below in this Chapter to an investment are, except where the context otherwise requires, references to that investment or those investments.
- (2) The advertisement shall not be issued with the intention of creating interest in an investment other than that which is identified in the advertisement.
- (3) Paragraph (2) above shall not prevent an advertisement from containing an invitation to apply for information about other investments offered by the Member.
- 6.12.** (1) The advertisement shall not specify some but not all of the terms and conditions which attach to the investment unless-
- (a) it gives details of how a written statement of all the terms and conditions may be obtained; and
- (b) those which are specified give a fair indication of the nature of the investment, of the financial commitment required and of the risks involved.
- (2) The advertisement shall not compare one investment with another unless
- (a) the comparison is fair; and
- (b) all information relevant to the comparison is included in the advertisement; and shall not make a comparison with any index unless the comparison is fair.
- For the purpose of this paragraph, "investment" shall mean any form of investment or saving, whether or not within Rule 6.2, and includes an occupational pension scheme, the State earnings-related pension scheme and any arrangement for the repayment of a loan which does not involve an investment contract.
- (3) The advertisement shall not contain information about past performance of an investment unless -
- (a) the advertisement contains a statement expressed as a warning that the information about past performance is not necessarily a guide to future performance;

- (b) the information as to the past performance is relevant to the past performance of the investment;
- (c) the source of any information given by the advertisement which is not obtained from the Member's own records is given;
- (d) the information given, whether by way of a graph or chart or otherwise, is not misleading (for example, it must not be so presented as to exaggerate past performance);
- 7 (e) if the investment is a "with profits" life policy, the information is the current maturity value of another investment of a class with which it is possible to make a fair comparison, having regard to the age of the policyholder, the term of the policy and the premiums payable;
- 7 (f) if the investment is in a unit trust scheme or a unit linked life policy, the advertisement includes information relating to the performance of the investment during the period of five years ending with the date of issue of the advertisement (or from the date the investment was first issued to that date, if less); and -
 - (i) if reference is made to an actual return to an investor, or a comparison of performance is made with other forms of investment, the reference or comparison is made on an "offer to bid" basis, and the basis is stated or otherwise apparent;
 - (ii) if a comparison is made of performance with an index or with movements in the price of units, the basis on which the comparison is made (for example, "offer to offer" or "offer to bid") is stated or otherwise apparent;

and any such comparison is fair.

An advertisement shall not be taken not to comply with the requirements of sub-paragraph (f) above by reason of its not including the information required for the whole of the period there referred to if the information is complete up to the last date before the date of issue for which the relevant information was available for inclusion in the advertisement.

- (4) The advertisement shall not imply that an investment is available in limited quantities or for a limited period or on special terms for a limited period unless that is the case.

6.13. (1) The advertisement shall not contain information the accuracy of which is to any extent dependent on assumptions about tax relief of any kind, unless it-

- (a) specifies the relief in question and states that it may be altered and, if it is the case, that the value of the relief depends on the financial circumstances of the investor;
- (b) distinguishes between relief which applies directly to investors as such and that which applies to the issuer of the investment or to the fund in which the investor participates.

- (2) An advertisement which relates to an investment the income from which -
- (a) is payable out of a fund the income of which is subject to income tax; and
 - (b) is not or may not be subject to income tax in the hands of the investor,

shall not describe the investment as one free from liability to 'income tax unless the fact that the income is payable out of a fund which is subject to income tax is stated with equal prominence.

- (3) An advertisement which relates to an investment in respect of which -
- (a) an investor will not be liable to tax on the realised capital gains in the investment; and
 - (b) any realised capital gains of the assets of a fund to which the value of the investment is linked are subject to tax,

shall not describe the investment as one free from liability to capital gains tax unless the fact that the value of the investment is linked to a fund which will be liable to tax on the realised capital gains in the assets of which it is comprised is stated with equal prominence.

- 6.14. (1) The advertisement shall, if it contains any particulars relating to any of the benefits payable under a policy, state -

- (a) which (if any) of the benefits under the policy are of fixed amounts;
- (b) what those fixed amounts are; and
- (c) which (if any) of the benefits under the policy are not of fixed amounts.

- (2) Where the investment is a policy and the advertisement describes the amount of a fixed benefit, or a minimum amount of a variable benefit, as being a guaranteed amount and refers to the participation of a third party, the advertisement shall not state or give the impression that the third party will stand surety for the Member should the Member not meet its obligations under the policy unless that is the case.

- (3) An advertisement which states that the investor will have the right to cancel the agreement under which he may acquire the investment shall also identify the period during which he may exercise that right by reference to its length and commencement and (if it is the case) shall state that the right to cancel is conferred by law.

- (4) In this Rule "policy" means a long term insurance contract within the meaning of Schedule 3 to these Rules.

- 6.15. In the case of an investment the value of which may fluctuate or is not guaranteed (or both), it shall be made clear in the advertisement that the value of the investment may fluctuate or is not guaranteed or both, as the case may be.

CHAPTER IV
RULES WHICH APPLY TO ADVERTISEMENTS MAKING OR INVITING OFFERS

6.16. (1) In this Chapter "advertisement" means' -

- (a) an advertisement which constitutes an offer to the public to enter into a contract with the Member issuing the advertisement and which requires any member of the public wishing to accept the offer to send or give their acceptance of the offer to the Member or to another person acting as agent for the Member; and
- (b) any written communication to an individual inviting him to enter into a contract with the Member which is made directly following the individual's response to an advertisement falling within Chapter II or III above;

and an advertisement or communication to which this Chapter applies may be referred to as a "Category C advertisement".

- (2) In this Chapter "projection" and "surrender value" have the meanings given by Part V of these Rules.
- (3) The requirements of this Chapter are in addition to the requirements of Chapters II and III above (but information to which more than one requirement applies need only be given once).

6.17. (1) The advertisement shall state clearly, in a separate paragraph and in type no smaller than that used in the main text of the advertisement, the risks involved in acquiring or holding the investment, and any such statement shall in particular make clear that -

- (a) if it is the case, deductions for charges and expenses are not made uniformly throughout the life of the investment but are loaded disproportionately on to the early years of the investment;
- (b) the capital value of and the income from the investment may fluctuate;
- (c) in the case of a "with profits" life policy, the return to the investor depends on what profits are earned and what decisions are made by the Member as to their distribution.

(2) If the advertisement contains a proposal form, that form must comply with the requirements of Rules 3.6 and 3.7.

6.18. The advertisement must be contained in a printed document.

6.19. (1) Subject to the following provisions of this Rule, a Category C advertisement shall, if the contract to which the offer or invitation referred to in Rule 6.16(1) relates is not a contract to which paragraph (2) below applies, contain a statement with respect to the contract complying with Rule 5.10 (as if the statement were that required by Rule 5.10(1)), and shall also give the following information-

- (a) in the case of a single premium, the minimum amount which the premium may be, if there is such a minimum;
- (b) in the case of regular premiums, the amounts those premiums may be;

- (c) how and where full details of the contract may be obtained; and
 - (d) if any of the benefits are linked benefits (within the meaning of Rule 5.1(2)) -
 - (i) where prices of the property to which the benefits are linked and the yields of that property may be obtained;
 - (ii) the most recent difference between the bid and offer prices of the units expressed as a percentage of the offer price and also the difference between the minimum bid price permitted by the deed of trust which constitutes the unit trust or the policy document, as the case may be, and the maximum offer price so permitted expressed as a percentage of that maximum offer price or, if there is no such permitted maximum or minimum, a statement of the Member's discretion to vary the pricing basis of the units;
 - (iii) in the case of a single premium, the current price at which the units will be allocated to the policy;
 - (iv) in the case of regular premiums, the basis on which units will be allocated on payment of future premiums;
 - (v) any arrangements under which the investor may make regular withdrawals from the amount of his investment; and
 - (vi) whether any information will be sent to the investor at regular intervals about his investment, and if so, what information and what intervals;
 - (e) whether or not the investor will have any right to cancel the contract if he enters into it and, if so, whether those rights derive from the Financial Services (Cancellation) Rules 1987 or are otherwise granted by the Member.
- (2) Subject to the following provisions of this Rule, a Category C advertisement shall, if the contract to which the offer or invitation referred to in Rule 6.16(1) relates is for the purchase of units in a unit trust, contain a statement with respect to the contract complying with Rule 5.10 (as if the statement were that required by Rule 5.10(1)), and shall also give the following information-
- (a) the minimum amount which the investor may invest, if there is such a minimum;
 - (b) if regular amounts are to be invested, what those amounts may be;
 - (c) in the case of a lump sum investment, the price at which units will be issued or, if that price is not fixed at the time of the issue of the advertisement, the basis for determining that price;
 - (d) in the case of a series of payments, the basis for determining the price at which units will be issued;
 - (e) where information about current prices of units and the most recent yield or the anticipated yields may be seen or obtained;
 - (f) if an application for units will not be acknowledged, that fact;

- (g) when certificates will be sent to the investor;
 - (h) the times at which units will be valued and dealt in;
 - (j) how units may be redeemed and when payments on redemption will be made; and
 - (k) details of any arrangements under which an investor may make regular withdrawals from the amount of his investment in the unit trust.
- (3) An advertisement to which paragraph (2) above applies shall also contain a statement that an investor entering into the contract in question will not have any right to cancel the contract under the Financial Services (Cancellation) Rules 1987, unless a right to cancel the contract will be otherwise granted.
 - (4) It shall be sufficient for the information required by Rule 5.10(2)(b) to be given in general terms; and information given in pursuance of Rule 5.10(2)(d), (e) and (f) shall be given subject to the requirements of Rule 6.1; copy
 - (5) A Member shall not issue or cause to be issued any advertisement to which paragraph (1) above applies unless it contains projections of all the surrender values which would be required if the projections were being given to an investor in circumstances in which Rule 5.5(4) applied.

This paragraph shall not be taken to prevent a surrender value being given in an advertisement in respect of an age group spanning a number of years, but where such a surrender value is given it must be not more than 105% of the true surrender value which would be applicable to any one individual who might be in that group.

- (6) An advertisement shall not contain any projection (whether required by paragraph (5) above or not) unless it is calculated in accordance with the provisions of Part V of these Rules; and an advertisement containing a projection must include statements in the terms (relevant to the contract in question) set out in Schedule 5 to these Rules.
- (7) An advertisement which contains any projection other than a projection required by paragraph (5) above must contain a statement in the terms set out in Schedule 6 to these Rules.
- (8) The information required by this Rule is in addition to any information required to be contained in the advertisement by any other provision of these Rules (but information to which more than one requirement applies need only be given once).
- (9) In this Rule “unit trust” means an authorised unit trust or a collective investment scheme recognised under section 86 of the 1986 Act, but does not include a unit trust scheme which constitutes a personal pension scheme (within the meaning of Part I of Schedule 3 to these Rules).

CHAPTER V
MISCELLANEOUS OBLIGATIONS

Approval of advertisements before issue

- 6.20. (1) A Member shall not issue or cause to be issued an advertisement unless it has been approved as complying with this Part of these Rules by the Member or any other Member within the same marketing group, and a draft or proof of the advertisement has been signed, and dated, in that behalf or, in the case of an advertisement which is not issued in printed form, a written statement to that effect is signed, and dated, in that behalf.
- (2) In the case of an advertisement relating to an authorised unit trust or a scheme recognised under section 86 of the 1986 Act, the Member issuing it or causing it to be issued shall ensure that the advertisement has been approved for issue by the trustee or custodian of the unit trust or scheme before it is issued.

This requirement is in addition to the requirement set out in paragraph (1) above.

Record-keeping

- 6.21. (1) A Member shall keep records of -
- (a) each advertisement which the Member issues or causes to be issued;
 - (b) the date on which it is issued;
 - (c) the name of the individual who signed the draft, proof or statement mentioned in Rule 6.20;
- and shall also keep that draft, proof or statement.
- (2) Paragraph (1)(a) above shall not require a separate record to be kept of an advertisement which is issued more than once on each occasion when it is issued unless it is altered in any way.
- (3) Records and other documents kept in pursuance of this Rule shall be kept by the Member for at least three years from the date of issue of the advertisement concerned.
- 6.22. Where paragraph (5) of Rule 6.6 applied on the issue of an advertisement, the Member shall keep, and remain prepared to disclose, for at least three years from the date of issue any evidence to which that paragraph applied.

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 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, indicate to which self-regulating organisations the members of that group belong (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.
- 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 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 19 of the Income and Corporation Taxes Act 1970);

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 any rights he may have under an occupational pension scheme or the State earnings-related pension scheme, to the investor's financial position generally 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) 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 another company representative who is offering to forgo part of his commission on the sale of the contract so as to reduce to the investor the cost of purchasing the contract;
 - (ii) to members of an affinity group;
 - (iii) 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;
 - (iv) for a limited period or in a limited area;
 - (c) which the investor has refused to buy.

- (4) Paragraph (3)(b)(ii) or (iii) above shall not apply where the company representative has reasonable grounds for believing that the investor is a member of the affinity group in question or, as the case may be, is such an individual as is mentioned in sub-paragraph (iii).
- (5) For the purposes of paragraph (3)(b)(ii) above "affinity group" means-
 - (a) any group of individuals who are all employees, or close relatives of employees of, the same person who is not an independent intermediary; or
 - (b) any group comprising individuals who have all paid a subscription to the same person, or close relatives of such individuals, and that person is not the Member or any member of the Member's marketing group, or an independent intermediary.
- (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.
- (7) In this paragraph "close relative", in relation to any person, means that person's spouse, child, parent, brother or sister.

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 not a Member of Lautro or 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 be remunerated 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 January 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 January 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 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;

but nothing in this paragraph shall be taken as authorising the representative to do anything further after making such a reference.