

PART I

GENERAL PROVISIONS

- 1.1. (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]
- (2) The Interpretation Act 1978 shall apply for the interpretation of these Rules, and for that purpose these Rules shall be deemed to be contained in a statutory instrument made in pursuance of a power conferred by the Financial Services Act 1986.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Member” means a Member of Lautro;

“month” means a calendar month;

“notice” means notice in writing;

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

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

“relevant investment business”, in relation to any person, means any business carried on by that person relating to the marketing of units in a collective investment scheme which is an authorised unit trust scheme or is a recognised scheme by virtue of section 86, 87 or 88 of the 1986 Act or of investments falling within paragraph 10 of Part I of Schedule 1 to that Act or of business which is investment business by virtue of paragraph 14 of Part II of that Schedule in so far as it relates to pension fund management falling within Class VII of Schedule 1 to the Insurance Companies Act 1982, but does not include any business -

- (a) which consists wholly in the marketing of credit insurance (within the meaning of paragraph 3 of part I of Schedule 3 of these Rules), or
 - (b) in so far as it comprises the marketing of personal equity plans (that is to say, schemes of investment constituting plans satisfying the conditions prescribed in the Personal Equity Plan Regulations 1986) under which investments may only be made in units in authorised unit trusts, or
 - (c) which does not involve that person's having a permanent place of business in the United Kingdom or engaging in any activity in the United Kingdom.
- (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) they should not 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 investment 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.
- (9) In relation to a Member which is a marketing associate, paragraphs (4) to (6) above shall have effect with the omission of any reference to investment management and as if any reference to a Member's investment contracts were a reference to the investment contracts of each body which is also an applicant to be treated as a member of the same marketing group or (as the case may be) is a member of the same marketing group.

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, any other recognised 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 or to any other person or body having responsibility for the supervision or regulation of investment business or other **financial** services, whether in or outside the United Kingdom;
 - (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, etc

- 1.4.** (1) If any event happens or any circumstances arise which make it impossible or impracticable for a Member to comply with any obligation imposed on it by these Rules, the Member shall forthwith give notice (which may be oral if it is impractical to give written 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.
- 1.5.** (1) The Board may on the application of a Member alter, subject to such conditions (if any) as the Board think fit, the requirements of any of the Lautro Rules so as to adapt them to that Member’s circumstances or to any particular kind of business carried on by him or to be carried on by him.
- (2) The Board shall not exercise their powers under this Rule unless it appears to the Board that -
- (a) compliance with the requirements in question would be unduly burdensome for the Member having regard to the benefit which compliance would confer on investors; and
- (b) the exercise of those powers will not result in any undue risk to investors.
- (3) The Board shall, before exercising their powers under this Rule in any case, give the Securities and Investments Board particulars of the case and the proposed alterations to the Rules.

Regulated insurance companies and friendly societies

- 1.6. Without prejudice to any other provision of the Lautro Rules, before any action is taken in pursuance of these Rules which might adversely affect the solvency of a regulated insurance company or friendly society or otherwise have a material and adverse effect on the financial position of a regulated insurance company or friendly society, the Board shall ensure that notice of the proposed action is given to the appropriate regulatory body.

PART III

SELLING PRACTICES

General

- 3.1. 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;
 - “independent intermediary” has the meaning given by Rule 4.2;
 - “Lautro Register of Company Representatives” means the register maintained by the Board of the names of company representatives of Members;
 - “money” includes cash, cheques, postal orders and stock and share certificates;
 - “monitoring arrangements” means the arrangements made in pursuance of Rule 3.4(3).

Product bias and Polarisation

- 3.2. (1) Where a company representative is authorised to sell any category of investment contract offered for sale by a Member -
- (a) the Member shall ensure that the company representative is authorised to sell each category of investment contract offered for sale by the Member; and
 - (b) where that Member is a member of a marketing group, that Member and each other member of that group which is also a Member of Lautro shall ensure that each of their company representatives is authorised to sell each category of investment contract offered for sale by the members of the group, whether or not they are also Members of Lautro.

For the purposes of this paragraph, one investment contract shall be taken to be of the same category as another if the terms of both contracts are the same, whether or not the amount of commission or remuneration payable on the sale of each contract is the same.

- (2) A Member shall not be taken to be in breach of paragraph (1) above by reason only that a company representative is not authorised to sell a particular category of contract if-
- (a) that company representative is not so authorised by reason only that he is not of sufficient competence to sell that category of contract; and
 - (b) another company representative is authorised to sell that category of contract or, if the contract in question is offered for sale by a body which is not a Member of Lautro, a person is authorised by that body to sell the contract.
- (3) A Member shall not be taken to be in breach of paragraph (1) above by reason only that no company representative is authorised to sell a particular investment contract to a particular investor if a company representative, in complying with his duty under paragraph 8(1) of the Code of Conduct, is not required to recommend that contract to that investor by virtue of paragraph 8(3) of the Code.

- (4) A Member shall ensure •
- (a) that the Member's company representatives, and appointed representatives which are not company representatives, are not permitted to sell and do not sell the investment contracts of any person other than that Member or any body which belongs to the same marketing group as the Member; and
 - (b) that the Member's investment contracts are only sold directly by the Member or by a marketing associate of the Member or by their company representatives or appointed representatives or by independent intermediaries; and
 - (c) that the employees of the Member and of the Member's appointed representatives who are not company representatives do not give advice to an investor on the merits of any of the Member's investment contracts or those of any member of the same marketing group.

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

- (5) A Member shall ensure that the remuneration paid or payable to its company representatives is so structured that none of them (when acting in the course of his duty as such) is likely to be so influenced in recommending investment contracts to investors by the expectation of receiving more remuneration if one kind of investment contract is recommended and less if one of a different kind is recommended that he will fail to comply with his duty under paragraph 8(1) of the Code of Conduct.
- (6) A Member shall ensure that its company representatives are not or are not likely to be influenced by any scheme or arrangement or project or other thing whatsoever to recommend an investment contract to an investor otherwise than in compliance with their duty under paragraph 8(1) of the Code of Conduct.
- (7) A Member shall ensure that the structure of remuneration payable by the Member to its marketing associates (if any) or to its appointed representatives, or any scheme, arrangement, project or other thing, is not such as to be likely to lead the associate or representative to influence any company representative to recommend a contract to an investor otherwise than in compliance with his duty under paragraph 8(1) of the Code of Conduct,
- (8) A Member shall not be taken to be in breach of paragraph (5) or (7) above by reason only that the amount payable to any person in respect of any investment contract differs from the amount payable to that person in respect of any other investment contract if those amounts are all calculated by reference to the same percentage of the maximum rate for the contracts in question set out in Schedule 3 to these Rules.
- (9) A Member shall provide such particulars about the remuneration of its marketing associates (if any), its appointed representatives and company representatives as the Board may from time to time require.
- (10) For the purposes of this Rule "**remuneration**" includes a benefit of any kind given, or which may be given, to a marketing associate, a company representative or an appointed representative, and "**paid**" and "**payable**" shall be construed accordingly; and
 - (a) benefits payable to an associate (within the meaning of section 207(5) of the 1986 Act) of any person shall be treated as payable to that person; and

- (b) any benefit payable to a person on behalf of another person shall be treated as payable to that other person.

Business relationships

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

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

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

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 Lauto 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 -
- (a) paragraph (1) above shall apply with the substitution of a reference to the appointed representative for the second reference to the Member, and the Member shall ensure that the appointed representative complies with the requirements of that paragraph and
 - (b) the Member shall ensure that the appointed representative gives 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) Paragraphs (1), (3) and (4) above shall not apply 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 and the Member shall within 4 weeks of that day make such enquiries relating to that representative as would have been required by paragraph (1) above if the Member had then been proposing to appoint him a company representative (and the appointment shall be terminated if the Member is not satisfied as mentioned in that paragraph).

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

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

Proposal forms and policies

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

(7) The proposal form shall not be taken not to comply with this Rule by reason only of the omission from the form of the matters required to be included by paragraphs (3) and (6) above if those matters are instead included in documents given to the proposer together with the proposal form.

- 3.7. (1) A proposal form or a policy of insurance issued by a Member shall not contain any provision which converts or purports to convert any statement made by the proposer relating to any fact, whether past or present, into a warranty of that fact except where the warranty concerns the life to be assured under a "life of another" policy.
- (2) Paragraph (1) above does not prevent a Member requiring specific warranties to be given about matters which are material to the risk to be insured.

Unsolicited calls

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

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

Business letters etc.

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

Payments to independent intermediaries

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

Records

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

- (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 or has realised an investment under an investment contract keep a record of the reason for that cancellation, conversion, lapse or realisation; 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 the company representative who collects the premiums (if different), as the Member thinks fit.
- (3) Where two or more complaints relate to the same company representative, the records shall be so kept that that fact is readily ascertainable.
- (4) 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.
- (5) 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.
- (6) A Member shall ensure that all records kept in pursuance of this Rule are kept in a readily accessible form.
- (7) Records kept in pursuance of paragraphs (1) and (2) above shall be kept for a minimum period of three years.
- (8) Records kept in pursuance of paragraph (4)(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 (4)(b) shall be kept for a minimum period of three years.
- (9) In the case of a marketing group, the records required by paragraph (4)(a) and (5) 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 the right to cancel 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 type assurance**” means a contract of insurance which secures a capital sum payable on survival for a specified term or either on survival for a specified term or on earlier death, or on earlier death or disability, including a contract securing the sum on death only if occurring after the attainment of a **specified** age not exceeding 16, but does not include any contract effected as part of a personal pension scheme or an occupational pension scheme;
 - “**future benefit**” has the meaning given by Rule 5.3(3);
 - “**given**” includes sent;
 - “**Holloway sickness policy**” means a policy offered or issued by a friendly society under the Holloway system;
 - “**linked benefit**” means a benefit payable under a life policy or a unit trust the amount of which is determined by reference to -
 - (i) the value of property of any description (whether specified or not);
 - (ii) fluctuations in the value of any such property;
 - (iii) income from any such property; or
 - (iv) fluctuations in an index of the value of any such property;
 - “**pension contract**” means a personal pension scheme, a self-employed deferred annuity (as defined in Part I of Schedule 3 to these Rules) or an occupational pension scheme which provides for the payment of an additional contribution as mentioned in paragraph 15(b) of Part I of that Schedule;
 - “**personal pension scheme**” has the meaning given in paragraph 14 of Part I of Schedule 3 to these Rules;
 - “**policy**” includes a contract of assurance offered or made by a friendly society where a policy evidencing the contract is not issued, and references in this Part to the issuing of a policy shall, in such a case, be construed as references to the making of the contract;
 - “**professional investor**” has the meaning given by paragraph (5) below;
 - “**projection**” and “**projection date**” have the meanings given by Rule 5.3;
 - “**projection tables**” means such tables as may be for the time being prescribed as projection tables by the Board for the purposes of this Part, and, in relation to an investment contract of any class, a projection table is appropriate if it is prescribed by the Board as being appropriate to investment contracts of that class;

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

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

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

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

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

but disregarding for this purpose any benefit payable on surrender;

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

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

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

- (3) Subject to any express provision to the contrary, references in the following provisions of this Part to an occupational pension scheme are references to an occupational pension scheme as defined in paragraph 11 of Part I of Schedule 3 to these Rules (including an annuity contract approved by virtue of section 20(2)(g) of the Finance Act 1970), other than an occupational pension scheme which provides for the payment of an additional contribution as mentioned in paragraph 15(b) of Part I of Schedule 3 to these Rules.
- (4) References in this Part to a **“premium”** (except in the expression **“the relevant premium”**), a **“single premium”** and a **“regular premium”** shall be construed in accordance with paragraph 18 of Part I of Schedule 3 to these Rules.
- (5) In this Part **“professional investor”**, in relation to any services provided by a Member, means a person who carries on investment business (including a person treated as carrying on investment business by virtue of section 19 1 of the 1986 Act) and for whom those services are provided in the course of his carrying on that investment business.
- (6) Where a member and an investor enter into more than one investment contract on the same day and the terms of all the contracts are identical, or a company representative or an independent intermediary recommends that an investor should enter into a number of identical investment contracts on the same day with the same Member, any provision of this Part requiring or permitting any projection, information or notice to be given to the investor shall be taken to be complied with in relation to all the contracts if the projection, information or notice is given (in accordance with the provision in question) in relation to any one of them or if it is given in relation to a notional contract the premiums payable under which are equal to the aggregate of the premiums payable under all the contracts and the benefits under which are equal to the benefits under them all, correspondingly aggregated (the other terms being the same as in the individual contracts).

- (7) Any reference in this Part to a guaranteed benefit under a policy includes a reference to a benefit payable under a policy issued by a friendly society the amount of which is guaranteed subject only to any alteration in that amount which may be required to be made in direct consequence of any future change in the rules of the society.
- (8) This Part shall apply (with any necessary modifications) in relation to a policy some but not all of the benefits payable under which are linked benefits as if the policy were two policies one of which is a policy under which the only benefits payable are those linked benefits and the other of which is a policy the only benefits payable under which are those which are not linked benefits.
- (9) Any reference in this Part to the Social Security Act 1975, the Social Security Pensions Act 1975 or the Social Security Act 1986 or to any provision of any of those Acts includes a reference to the corresponding provision in Northern Ireland.

Exclusion of certain investment contracts and Inland Revenue limits

- 5.2. (1) Subject to paragraph (2) below, Rules 5.3 to 5.13 do not apply in relation to a defined benefit scheme, that is to say, an occupational pension scheme under which none of the principal benefits to which the members of the scheme are entitled are money purchase benefits (within the meaning of the Social Security Pensions Act 1975), or in relation to any such benefits.
- (2) Rule 5.12 shall apply in relation to the following benefits payable under an occupational pension scheme which is a defined benefits scheme, that is to say, money purchase benefits which are funded wholly or in part by additional voluntary contributions paid under the scheme.
- (3) Rules 5.3 to 5.13 do not apply in relation to an investment contract which (disregarding Rule 1.2(2)) falls within Note 1 of paragraph 10 of Schedule 1 to the 1986 Act.
- (4) Nothing in this Part 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.

Projections and surrender values

- 53. (1) References in this Part to a projection -
 - (a) are references to the amount of any future benefit payable under an investment contract, 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 projection 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 which is not a pension contract, 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 or a pension contract, the tenth anniversary of the date on which those units were purchase&

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

Restrictions on the issuing of certain projections

- 5.4. (1) A Member shall not issue a projection which relates to any benefit payable under any investment contract unless the contract is -
- (a) a whole life assurance, endowment type assurance or term assurance;
 - (b) a pension contract;
 - (c) a unit trust;
 - (d) a Holloway sickness policy under which any surplus is accumulated at compound interest;
 - (e) for an immediate annuity;
- or unless the projection is of the surrender value of the contract on each of the first five anniversaries of the commencement of the contract (or so many of them as fall before the maturity date or projection date).
- (2) A projection given to an investor by a company representative shall be given or confirmed in writing and, except where the projection is of a benefit under a contract which is proposed but not in fact made, a record of the projection shall be kept by the Member for at least 3 years.

General provisions relating to the giving of projections and surrender values

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

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

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

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

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

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

- (b) secondly, that no such transfer value will be paid into the scheme in respect of the investor;

and accordingly two projections shall be given in accordance with paragraphs (3) and (4)(a) above of the protected rights annuity in any case where this paragraph applies, (but for the purposes of paragraph (a) above the commencement date of the contract shall be determined disregarding paragraph(4)(a) above).

- (9) The Member may, at the time the contract in question is recommended or as soon as is reasonably practicable thereafter, provide the investor with a Table of Specimen Surrender Values which complies with the requirements of paragraph (10) below instead of issuing any projection in accordance with paragraph (4) above.
- (10) The requirements referred to in paragraph (9) above are as follows -
 - (a) a Table of Specimen Surrender Values shall specify surrender values as at each anniversary for which a projection would have been required by paragraph (4) for the contract in question (and no others) and each surrender value as at an anniversary shall be set out next to the total amount of the premiums which will be paid under the contract immediately prior to that anniversary;
 - (b) a Table of Specimen Surrender Values shall specify a sufficient number of surrender values, calculated by reference to different ages and sex of a life assured or an annuitant (as the case may be), benefits of different values and other terms of contracts, so as to enable the investor to deduce the approximate surrender values of the contract in question which would be applicable to him.

Projections included in the cancellation notice

- 5.6.** (1) Subject to the following provision of this Rule 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 type assurance, a projection of the benefit payable on survival to the maturity date;
 - (b) in the case of a pension contract, other than a contract for an immediate annuity, 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, or a with-profits whole life policy the bonuses payable under which are added to the surrender value of the policy (rather than being added to the guaranteed benefit payable on death), 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, other than a policy falling within sub-paragraph (c) above, 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 which is not a pension contract, the cash value of the units at the projection date;

- (f) in the case of a Holloway sickness policy, the surrender value at the projection date;
 - (g) in the case of an appropriate personal pension scheme, in addition to and separate from any other projection required by any other provision of this paragraph, a projection of any protected rights annuity;
 - (h) in the case of a contract for an immediate annuity, the amount of the annuity at the projection date.
- (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 "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
 - (b) if all of those values are nil, a statement of that fact.

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

- (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, and in relation to any such projection, the reference in that paragraph to the commencement of the contract shall be read as a reference to the date (whenever it may be) on which the first minimum contribution will be paid in respect of the investor.

Rule 5.5(8) shall apply (with any necessary modifications) in relation to projections of surrender values under this paragraph as it applies in relation to projections of surrender values under Rule 5.5(4)(a).

- (4) Paragraph (2) above does not apply in relation to benefits payable under an 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 a regulatory organisation please write to [.....]"*

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

This paragraph does not apply in relation to a contract which is without profits if none of the benefits under it are linked benefits.

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

- 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 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, the following assumptions shall be made-
- (i) that future bonuses of any kind 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 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)(a)(i) above “rate” includes a nil rate.
- (4) 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 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.
- (5) In calculating any projection in accordance with this Rule, the Member shall allow for partial surrenders of a unit-linked policy 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.

- (6) 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.
- (7) In any case when the Member which issued or is to issue the projection is a marketing associate of another body by which the contract in question is to be, or may be, issued, references in this Rule to the Member are references to that other body.

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 an investor who is not a professional investor a written statement complying with the following provisions of this Rule at the time an investment contract 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 unless the contract (if made) would constitute a variation of an existing endowment type assurance, whole life assurance or pension contract or of an existing unit trust savings scheme.

The Member may comply with the requirements of this Rule by giving the investor more than one written statement, and in such a case the references in this Rule to a statement shall be construed as references to all those statements read together.

- (2) The statement shall -
 - (a) if any benefit under the contract is a linked benefit-
 - (i) where the benefit is payable under a policy, make clear that it is a linked benefit;
 - (ii) describe the property or index to which it is linked and, in the case of a policy, set out the investment objectives of the fund in question and any policies which the investment managers of the fund have adopted or propose to adopt in selecting the investments in which the funds of the scheme will be invested,
 - (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 made clear;
 - (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) or, in the case of a single premium charge for mortality and morbidity, describe the nature and basis of the charge;
 - (v) where the benefit is payable under a policy, 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 any discretion there may be to vary the pricing basis of the units, and for the purposes of this provision "the most recent difference" means the most recent difference which it is practical for the Member to include in the statement, being a difference on a date not more than 18 months before the date on which the contract is recommended to the investor;

- (vi) where the benefit is payable under a policy the premium under which is a single premium, the price at which the units will be allocated to the policy or the date on which the price of units to be allocated on payment of the premium will be determined;
 - (vii) where the benefit is payable under a policy the premiums under which are regular premiums, the dates on which the price of units to be allocated on payment of a premium will be determine&
- (b) if the contract is a with-profits policy, give an indication of the basis on which the amount available for distribution and for allocating that amount to the policyholders and shareholders (if any) is to be determined, and of any special features relating to or affecting the investment of the Member's assets or the constitution of its liabilities which the policyholder might reasonably expect to affect the amount so available;
- (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 in respect 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) outline an 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 or, if a proposed change in the relevant law has been announced by or on behalf of the Government the operative date of which is to be before the expected termination of the contract and it is reasonably practicable for the Member to take account of the announcement in the statement, under the law as so changed) in respect of any amounts which may be paid under the contract and any reliefs from income tax which may be available to an investor in respect of amounts paid by an investor under the contract;
- (e) if the contract is a policy, indicate the nature of any income tax, corporation tax or capital gains tax which may be imposed (under that law) in respect of any assets of the Member which underly the contract;
- (f) if the contract is a policy, identify and specify the amount of any benefit the value of which is guaranteed at the commencement of the contract, other than any guaranteed surrender value;

- (g) describe the consequences for the investor if at any time he or any person on his behalf stops making payments under the contract;
- (h) 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; and for the purposes of this provision "**the most recent difference**" means the most recent difference which it is practical for the Member to include in the statement, being a difference on a date not more than 18 months before the date on which the contract is recommended to the investor;
 - (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;
 - (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 latest gross distribution yield which it is practical for the Member to include in the statement and which was announced on a date (which shall be specified in the statement) not more than 18 months before the date on which the contract is recommended to the investor;
 - (v) in the case of a lump sum investment, the price at which units will be issued or the date on which the price of the units to be allocated on payment of the premium will be determined;
 - (vi) in the case of a series of payments, the dates on which the price of units to be allocated in respect of each payment will be determined;
 - (vii) when certificates will be sent to the investor;
 - (viii) when units will be valued and dealt in;
 - (ix) how units may be redeemed and when payments on redemption will be made;
 - (x) the investment objectives of the scheme and any policies which the managers of the scheme have adopted or propose to adopt in selecting the investments in which the funds of the scheme will be invested
 - (xi) the name of the trustee or custodian (if any) of the unit trust;
 - (xii) where and how copies of the scheme particulars may be obtained by the investor and where and how copies of the last annual and half-yearly reports (as required to be published by the managers by regulations made under section 81 of the 1986 Act), may be obtained.

- (3) For the purposes of paragraph(2)(a) above, where the contract contains an option for the investor to change funds, it shall be sufficient to describe the fund or funds or property in which the first premium will be invested and to state that further information about other funds or property is available on request.
- (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, and, in particular, where only the nature and basis of any single premium charges for mortality and morbidity are described in accordance with paragraph (2)(a)(iv) above, the Member shall, on request, give the investor further particulars of the charges (so far as they relate to him).
- (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 any benefit 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).

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; or
 - (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.
- (8) In any case where the Member referred to in paragraph (1) above is a marketing associate of another body by which the contract in question is to be, or may be, issued -
 - (a) if the other body is a Member of Lautro, that other Member shall give the marketing associate all information necessary to comply with the requirements of this Part as respects that advertisement;
 - (b) if that other body is not a Member of Lautro, it shall be the duty of the marketing associate to obtain all such information from the other body.

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 an endowment type assurance, 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 policy or endowment type assurance, 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.
- (4) A projection of a benefit payable under an investment contract given to an investor less than one year after the commencement date of the contract shall be calculated as if it were being given at that commencement date, 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 under the heading "PRODUCT PARTICULARS" in any cancellation notice (other than one given in respect of a contract which constitutes a variation of an existing contract) 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 -
- (a) projections of specimen surrender values in respect of specimen members calculated as if the benefits payable in respect of any such member were payable under an appropriate personal pension scheme to be made between him and the Member, and Rule 5.6(2) and (3) (but not Rule 5.6(4)) shall apply in relation to any such projection; and
 - (b) such information as would have been required by Rule 5.13(1) if the benefits were payable as mentioned in sub-paragraph (a) above, and for this purpose Rule 5.10(2) shall have effect as if -
 - (i) the references in sub-paragraph (d) to an investor included references to a member of the scheme; and
 - (ii) the reference in sub-paragraph (f) to a benefit was a reference to such specimen benefits as may be calculated from the premiums used in calculating the projections included in the notice in accordance with the preceding provisions of this paragraph.

- (2) Rule 5.6(5) shall not apply in relation to any such cancellation notice as is mentioned in paragraph (1) above but the Member may include in such a notice under the heading “ILLUSTRATIONS OF FUTURE RETURNS” projections of any specimen benefits referred to in paragraph (1)(b)(ii) above, and such projections shall comply with Rule 5.6(1) (disregarding Rule 5.6(4)).
- (3) In addition to the information required to be given under paragraph (1) above, the Member shall give a written statement or statements to the trustees or the employer containing such further information as may be necessary to enable the trustees or the employer to give to any person who becomes a member of the scheme such information as would have been required to be given to that person by the Member if the contract under which the benefits in question are payable were an appropriate personal pension scheme made between that person and the Member, and the Member may include in any such statement any other projection of a future benefit payable in accordance with the scheme calculated as if the contract under which the benefit is payable were an appropriate personal pension scheme made between the person to whom the benefit will be payable and the Member, but, for this purpose, in calculating any surrender value or retirement fund any premium payable in respect of a protected rights annuity shall be deemed to be paid in respect of an annuity which is not a protected rights annuity.
- (4) The Member shall ensure that the trustees or the employer, as the case may be, are given such further information as may be necessary to take account of any changes affecting the scheme which render the information previously given in pursuance of this Rule incorrect or inaccurate.
- (5) A Member may include in a cancellation notice given in respect of a money purchase contracted-out scheme or in the statement given in pursuance of paragraph (3) above a projection of the annuity for which the scheme provides in order to give effect to the protected rights of a member of the scheme calculated as if the relevant premium were paid into an appropriate personal pension scheme; and for the purposes of any such projection the relevant premium shall be—
- 103% of the amount of the minimum payments in respect of the scheme member for the income tax year in which the projection is made, less 103% of the amount of any applicable policy fee specified in Part II of Schedule 4 to these Rules.
- A projection (calculated similarly) may also be included for the immediately following income tax year if the amount of the rebate percentage (within the meaning of section 30 of the Social Security Pensions Act 1975) for that later year has been published at the time the projection is given.
- (6) In any case where a transfer value may be paid into the scheme in respect of the scheme member, the projection under paragraph (5) above shall exclude so much of the value of the annuity as would be derived from any such transfer value, but a separate projection of so much of that value as would be so derived may be given, and for the purposes of any such projection it shall be assumed that no minimum payments would be paid in the income tax year for which the projection is given and that no policy fee is applicable to the annuity and that the transfer value is paid into an appropriate personal pension scheme.
- (7) Where a projection is given under this Rule of the total benefits of the scheme member and for the purposes of that projection an assumption regarding the size of future rebate percentages is required to be made, the Member shall use the latest assumption regarding the size of future rebate percentages published by the Government Actuary, and shall make it clear to the person to whom the projection is given that the projection is based on that latest published assumption.

- (8) Any expression used in paragraphs(5), (6) and (7) above and to which a meaning is given by section 66 of the Social Security Pensions Act 1975 shall also have that meaning in those paragraphs.
- (9) Any projection issued by the Member in pursuance of this Rule shall comply with such of the provisions of Rules 5.7, 5.8, 5.9 and 5.11 as are applicable to the projection (subject to the provisions of this Rule) and Rules 5.6, 5.10 and 5.13 shall not apply to any such projection except as provided by this Rule.

Disclosure of product particulars, inflation and wording to accompany projections

- 5.13.** (1) A Member shall include, under the heading “PRODUCT PARTICULARS”, in any cancellation notice given to an investor in respect of any of the Member’s investment contracts the information relating to the contract required to be given to the investor by Rule 5.10.
- (2) A Member shall include or attach to any document containing projections issued by the Member the statement set out in Schedule 6 to these Rules which is applicable to the policy, subject to any modification permitted by the Notes to that Schedule.
- This paragraph does not apply in relation to a projection of a protected rights annuity or to a projection given in compliance with Rule 5.5(4) or 5.6(2).
- (3) Any document containing a projection of a future benefit, other than a projection under Rule 5.5(2)(b), shall include or be accompanied by such of the statements set out in Schedule 5 to these Rules as are appropriate to that projection.
- (4) The statements set out in Sections I and II of Schedule 5 may be altered by the Member in any case where the Member considers that the wording in Schedule 5 is not wholly appropriate to the projection in question, but an alteration shall not be made in pursuance of this paragraph if its effect is, or is likely to be, to reduce the significance or impact of any other provision of this Part.

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

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

Disclosure of commission in cancellation notice

- 5.14.** (1) A Member shall include in any appropriate cancellation notice given to an investor in respect of any of the Member’s investment contracts -
- (a) under the heading “COMMISSIONS”, if commission is payable in respect of the contract to an independent intermediary (within the meaning of Part IV of these Rules) and the name of the Member is entered on the Lautro Maximum Commission Roll, a statement relating to the commission payable in respect of the contract in the form (appropriate to that contract) set out in paragraph 1 of Schedule 7 to these Rules;

Directions of the Board etc.

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

Share exchange transactions

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

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

- (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;
 - (c) the date on which the proceeds of the sale of the shares are to be applied as mentioned in sub-paragraph(b) above; and
 - (d) who will be liable for any duties or levies payable in connection with the sale of the shares.
- (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 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 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.

Broker bonds

- 5.20 (1) Where a Member issues a policy which is a broker bond (within the meaning of Part IV) to an investor, the Member shall, at the time the policy is issued or as soon thereafter as is reasonably practicable, give to the investor a notice stating the basis on which the Member will remunerate the broker (within the meaning of Part IV) on behalf of the investor for the broker's fund management services.
- (2) A notice under paragraph (1) above shall make it clear that the remuneration is being paid by the Member as agent for the investor and also that the remuneration is in addition to the charges made by the member under the policy.
- (3) The requirements of this Rule are additional to the requirements of the preceding Rules in this Part, and any notice given under this Rule must be given separately from any cancellation notice relating to the policy in question.



**PART VI
ADVERTISEMENTS**

**CHAPTER I
GENERAL PROVISIONS**

Interpretation

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

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

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

Obligations of Members

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

CHAPTER II RULES APPLYING TO ALL ADVERTISEMENTS

Advertisements to be clear and not misleading

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

- (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, and shall not contain a projection of any benefit under an investment contract which would not be permitted by Part V if a contract of the same kind were to be recommended to an investor by a company representative.
 - (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.
 - (3) A statement or indication in an advertisement that a person is a Member of Lautro shall not (without more) be taken for the purposes of this Rule to mean that the advertisement is approved or endorsed by Lautro.
- 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 associate or controller of the Member or an employee or a close relative of an employee of the Member or of such an associate or controller, 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 **“controller”, in** relation to a Member, means -
- (a) if the Member is a body corporate, a person who is entitled to exercise, or control the exercise of, 15% or more of the voting power at any general meeting of the body corporate or of another body corporate of which it is a subsidiary (within the meaning of section 736 of the Companies Act 1985); and
 - (b) in any other case -
 - (i) a person in accordance with whose directions or instructions the officers of the Member are accustomed to act (disregarding any advice given in a professional capacity); or
 - (ii) a person who is entitled to exercise or control the exercise of 15% or more of the voting power at any general meeting of the association; and

“associate”, in relation to a Member, means-

- (a) a partner of the Member;
- (b) an appointed representative of the Member;
- (c) a director, manager or secretary of the Member or, if the Member is an unincorporated association, a member of the governing body of the association, or any other officer of the Member;
- (d) if the Member is a body corporate or an unincorporated association-
 - (i) another such body or corporation the controller of which is also the controller of the Member; or
 - (ii) another such body or corporation the controller of which is two or more persons and the same persons are also the controller of the Member, and for the purposes of this provision two or more persons shall be taken to be the same as other persons if they would be the same if one or more of them were treated as replaced by his close relative or by a person with whom he is in partnership or by a body corporate or unincorporated association of which he is an officer or controller; or
 - (iii) another such body or corporation if it and the Member both belong to the same group (within the meaning of paragraph 30 of Schedule 1 to the 1986 Act).

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);
- (e) if the investment is a with-profits policy or a unit linked policy the premiums payable under which are regular premiums, the current maturity value (including the value of any retirement fund) or surrender value of another investment of a class with which it is possible to make a fair comparison is included, together with the age of the policyholder, the term of the policy and the premiums payable under that other investment;
- (f) if the investment is in a unit trust scheme or a policy not falling within subparagraph (e) above, other than a without-profits policy none of the benefits under which are linked benefits, 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 subparagraph (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.
- (5) In this Rule "**policy**" means a long term insurance contract within the meaning of Schedule 3 to these Rules.

- 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 or other body which will issue the policy should the Member or other body 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 or if that Member is a marketing associate, with another body, 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 or which contains a proposal form which if returned completed by a member of the public to the Member or other person would constitute an offer to enter into the contract in question; and
- (b) any written communication to an individual inviting him to enter into an investment contract which is made directly following the individual’s response to an advertisement falling within Chapter II or III above issued by the Member with whom the contract is to be made or by a marketing associate;

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

- (2) In relation to an advertisement within paragraph (1)(b) above, references in the following provisions of this Part to the issuing of an advertisement shall be construed as references to the sending out of the communication in question
- (3) Subject to paragraphs (1) and (2) above, this Chapter shall be construed as one with Part v.
- (4) 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, if that is the case;
- (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-

- (a) if any benefit under the contract is a linked benefit -
- (i) where the benefit is payable under a policy, make clear that it is a linked benefit;
 - (ii) describe the property or index to which it is linked and, in the case of a policy or personal pension scheme, set out the investment objectives of the fund in question and any policies which the managers of the fund have adopted or propose to adopt in selecting investments for the fund
 - (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 made clear;
 - (iv) where the benefit is payable under a policy or personal pension scheme, state the nature and amount or rate of any charges which will be made on the investor (whether directly by the Member or other body issuing the contract or indirectly by the manager of the fund 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 are 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) or, in the case of a single premium charge for mortality and morbidity, describe the nature and basis of the charge;
 - (v) where the benefit is payable under a policy or personal pension scheme, 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 or other document constituting 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 any discretion there may be to vary the pricing basis of the units, and for the purposes of this provision “**the most recent difference**” means the most recent difference which it is practical for the Member to include in the advertisement;
 - (vi) where the benefit is payable under a policy or a personal pension plan the premium under which is a single premium, the price at which the units will be allocated to the policy or plan or the date on which the price of the units to be allocated on payment of the premium will be determine&
 - (vii) where the benefit is payable under a policy the premiums under which are regular premiums, the dates on which the price of units to be allocated on payment of a premium will be determine&
 - (viii) where the contract is a unit trust which constitutes a personal pension scheme -
 - (I) the name of the trustee or custodian (if any) of the unit trust to which the benefits are linked

- (II) where and how copies of the scheme particulars and the last annual and half-yearly reports (as required to be published by the managers by regulations made under section 81 of the 1986 Act) may be obtained;
 - (III) whether the income of the unit trust will be reinvested in the purchase of further units or will be reflected in the price of the units;
- (b) if the contract is a with-profits policy, give an indication of the basis on which the amount available for distribution and for allocating that amount to the policyholders and shareholders (if any) is to be determined, and of any special features relating to or affecting the investment of assets or the constitution of liabilities which the policyholder might reasonably expect to affect the amount so available;
- (c) specify -
- (i) the amounts which any person other than the body issuing the contract will pay under or for the purposes of the contract, including in particular the amount in respect of any protected rights annuity;
 - (ii) if any such amount is not ascertainable at the time the advertisement 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 those amounts or the frequency at which they are payable may be varied, together with a description of the treatment to be afforded to any increase in any such amount;

- (d) outline -
- (i) an 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 advertisement is issued or, if a proposed change in the relevant law has been announced by or on behalf of the Government which it is reasonably practicable for the Member to take account of, under the law as so changed) in respect of any amounts which may be paid under the contract, and
 - (ii) any reliefs from income tax which may be available to an investor in respect of amounts paid by an investor under the contract;
- (e) if the contract is a policy, indicate the nature of any income tax, corporation tax or capital gains tax which may be imposed (under that law) in respect of any assets of the body issuing the contract which underly the contract;
- (f) if the contract is a policy, identify and specify the amount of any benefit the value of which will be guaranteed at the commencement of the contract;
- (g) describe the consequences for the investor if at any time he or any person on his behalf were to stop making payments under the contract;
- (h) state, in the case of a single premium, the minimum amount which the premium may be (if there is such a minimum), and, in the case of regular premiums, the amounts those premiums may be;
- (j) if any of the benefits are linked benefits (within the meaning of Rule 5.1(2)), any arrangements under which an investor may make regular withdrawals from the amount of his investment; and

- (k) 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, other than a unit trust which constitutes a personal pension scheme -
- (a) describe the property or index to which the units are linked, state how the amount of any benefit under the contract will be calculated and make it clear that the price of units can go down as well as up;
 - (b) specify the amounts which any person other than the body issuing the contract will pay under or for the purposes of the contract;
 - (c) outline an 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 advertisement is issued or, if a proposed change in the relevant law has been announced by or on behalf of the Government which it is reasonably practicable for the Member to take account of, under the law as so changed) in respect of any amounts which may be paid under the contract;
 - (d) describe the consequences for the investor if at any time he or any person on his behalf were to stop making payments under the contract;
 - (e) either give the scheme particulars or the following information -
 - (i) the most recent differences 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 any discretion there may be to vary the pricing basis of the units, and for the purposes of this provision "the most recent difference" means the most recent difference which it is practicable for the Member to include in the advertisement;
 - (ii) the amount of any charge which the investors will have to pay in connection with the contract, or if any such charge is not ascertainable at the time the advertisement 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 amount of any such charge or the frequency at which it is payable may be varied,
 - (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 latest gross distribution yield which it is practical for the Member to include in the advertisement and which was announced on a date (which shall be specified in the advertisement) not more than 18 months before the date on which the advertisement is issued,
 - (v) the name of the trustee or custodian (if any) of the unit trust;

- (vi) where and how copies of the scheme particulars and copies of the annual and half-yearly reports (as required to be published by the managers by regulations made under section 81 of the 1986 Act) may be obtained;
 - (vii) in the case of a lump sum investment, the price at which units will be issued or the date on which the price of the units to be allocated on payment of the premium will be determined;
 - (viii) in the case of a series of payments, the dates on which the price of units to be allocated in respect of each payment will be determined;
 - (ix) when units will be valued and dealt in;
 - (x) how units may be redeemed and when payments on redemption will be made;
 - (xi) the investment objectives of the scheme and any policies which the managers of the scheme have adopted or propose to adopt in selecting the investments in which the funds of the scheme will be invested;
- (f) state the minimum amount which the investor may invest (if there is such a minimum), and if regular amounts are to be invested, what those amounts may be;
- (g) state if an application for units will not be acknowledged and
- (h) give details of any arrangements under which an investor may make regular withdrawals from the amount of his investment in the unit trust.
- (3) For the purposes of paragraph (1)(a) above, where the contract contains an option for the investor to change funds, it shall be sufficient to describe the fund or funds or property in which the first premium will be invested and to state that further information about other funds or property is available on request.
- (4) In addition to any information required to be given by paragraph (1) or (2) above, the Member shall include in the advertisement such other information as may be necessary to enable an investor 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 any benefit 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).

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) 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.
- (7) Information given in pursuance of paragraph (1)(d) and (e) above shall be given subject to the requirements of Rule 6.13.

- (8) A Member shall not issue or cause to be issued any advertisement to which paragraph (1) above applies unless it contains a Table of Specimen Surrender Values which -
- (a) specifies surrender values of the contract to which the advertisement refers on each of the first five anniversaries of the commencement of the contract (or so many of them as fall before the maturity date or projection date), setting each surrender value next to the total amount of premiums to be paid under the contract immediately prior to the anniversary in question; and
 - (b) specifies a sufficient number of surrender values, calculated by reference to different ages and sex of a life assured or annuitant (as the case may be), benefits of different values and other terms of contracts to enable any potential investor to deduce the approximate surrender value which would be applicable to him.

If a premium of any particular amount is mentioned in the advertisement the Member shall ensure that the benefits by reference to which the surrender values are calculated include the benefit (or a benefit substantially similar to that) which would be obtained under the contract if premiums of that amount were paid.

- (9) An advertisement shall not contain any projection (whether required by paragraph (8) 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 or statements in those terms subject to any alterations made by the Member in any case where the Member considers that those terms are not wholly appropriate to the projection in question, other than any alteration the effect or likely effect of which is to reduce the significance or impact of any other provision of this Part.
- (10) An advertisement which contains any projection other than a projection required by paragraph (8) above must contain a statement in the terms set out in Schedule 6 to these Rules.
- (11) 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).
- (12) In a case where the advertisement is issued by a marketing associate of another body which will enter into the investment which is referred to in the advertisement -
- (a) if the other body is a member of Lautro, that other Member shall give the marketing associate all information necessary to comply with the requirements of this Part as respects that advertisement;
 - or
 - (b) if that other body is not a Member of Lautro, it shall be the duty of the marketing associate to obtain all such information from the other body.

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 identifying and promoting an authorised unit trust or a scheme recognised by virtue of section 86, 87 or 88 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 and the place where or means by 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 materially altered.
- (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, any member of which is an authorised person by virtue of an authorisation granted by the Securities and Investments Board under section 27 of the 1986 Act, indicate that fact (logos of the organisations being sufficient for the purpose);
 - (d) give the address and telephone number of the branch or office of the Member to which he reports or, if he is an employee of an appointed representative, the name, address and telephone number of that appointed representative.

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

Best advice to be given

6. A company representative who, in the course of any relevant investment business, has dealings with an investor -
- (a) shall give the investor all information relevant to those dealings and that information shall in particular include the information required to be disclosed in such dealings by Part V of these Rules;
 - (b) shall not complete an application form, in whole or in part, for the purchase of an investment contract by the investor unless the investor has asked him to do so, and where the representative does complete the form, in whole or in part, for the investor, he shall ask the investor to check that what he has written is correct and ensure that the investor reads the form through before signing it;
 - (c) shall not make inaccurate or unfair criticisms of other investment contracts or of any other method of saving or investment, or of any occupational pension scheme or the state earnings-related pension scheme or of any arrangement for the repayment of a loan which does not involve an investment contract;
 - (d) shall not claim to have obtained the investor's name from another person without that person's consent, and shall disclose that person's name if requested by the investor so to do;
 - (e) shall not advise the investor to convert, cancel or allow to lapse any investment contract or realise any investment under an investment contract unless the representative has previously -
 - (i) except where the advice relates solely to switching investments between unit trust schemes or between two single premium life assurance policies, or two single premium pension schemes the benefits under which are or include linked benefits (within the meaning of Rule 5.1(2)), made a comprehensive study of the investor's need to make any investment and of his financial resources; and
 - (ii) disclosed to the investor all relevant consequences and disadvantages likely to follow from the action advised including in particular the loss of Life Assurance Premium Relief (that is to say, relief given under section 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 the investor's financial position generally, to any rights he may have under an occupational pension scheme or the State earnings-related pension scheme, (if such rights are relevant in the particular case) and to all other relevant circumstances; and he shall use his best endeavours to ensure -
- (a) that he recommends only that contract or those contracts which are suited to that investor; and
 - (b) that there is no other contract available from the Member, or, if the Member belongs to a marketing group, from any member of that group, which would secure the investor's objectives more advantageously.

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

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

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

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

Confidentiality and record keeping

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

General duty to make all relevant enquiries

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

Restriction on taking part in certain business

13. (1) A person who is at any time a company representative shall not also at that time be an independent intermediary or otherwise act in any connection in the sale, or the procuring of the sale, of any investment contract offered for sale by any person who is 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 accept remuneration in respect of any investment contract which was made before the date on which his current appointment began by any body which is or is eligible to be a Member (other than the Member whose company representative he is or any member of the same marketing group)-

- (a) in the case of a defined benefits scheme (within the meaning of Rule 5.2(1)) by reference to any increase in premium above the premium payable immediately before that date or, if later, [date];
 - (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, [date].
- (4) Paragraph (1) above shall not prevent a company representative from referring an investor to an independent intermediary or receiving remuneration from that intermediary for that reference, if -
- (a) that investor requires an investment contract of a particular class and that requirement cannot be satisfied by any investment contract available from the Member or any member of the marketing group;
 - (b) on the vesting of a pension contract the investor requires advice on the purchase of an annuity on open market terms;
 - (c) the investor wishes to invest a lump sum and the representative considers that part (but not the whole) of that sum should be invested otherwise than in contracts available from the Member or members of the same marketing group;
- but nothing in this paragraph shall be taken as permitting the representative to do anything further after making such a reference.
- (5) A company representative shall not make any payment to an independent intermediary otherwise than as agent for the Member or another member of the same marketing group.