

- (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 -



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

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

- (7) The member shall enter in the register the name and address of the appointed representative or company representative who is required by paragraph (6) above to be registered in it, together with the name and address of the company, intermediary, representative or other person by reason of any relationship (direct or indirect) with which or whom the name of the **first-mentioned** appointed representative or company representative is registered, and an indication of the reason for the registration.

Compliance with the Code of Conduct

- 3.4. (1) The Member shall ensure that a person is not appointed as a company representative of that Member except on terms which impose on him a duty to act in the performance of his functions as a company representative in such a way as to comply with the Code of Conduct; and in this Part of these Rules -
- (a) references to a duty in the Code of Conduct are references to the duty imposed on him by the terms of his appointment corresponding to, or requiring him to comply with, **that** duty in the Code of Conduct;
 - (b) references to a representative complying with the Code of Conduct are references to his complying with the duty (or duties) imposed on him by the terms of his appointment to act in such a way as to comply with that Code.
- (2) Paragraph (1) above shall not prejudice the imposition of any other obligation which does not conflict with any of the provisions of the Code of Conduct.
- (3) The Member shall make arrangements (which, in a case where the Member is a member of a marketing group, may include arrangements with a company which is a member of that group, whether or not that company is also a Member of Lautro) for the monitoring of the performance of its company representatives to ensure that they comply with the Code of Conduct (in so far as it applies to them) and, in so far as those arrangements depend to any extent on the company representative doing or omitting to do anything, the Member shall ensure that the appropriate obligations are included in the representative's terms of appointment.
- (4) The Member shall -
- (a) ensure **that** its company representatives comply **with** the Code of Conduct (in so far as it applies to them); and
 - (b) ensure **that** it has, or the appointed representative or marketing associate (as the case may be) has, sufficient powers and sanctions available to **it** to enable **it** to require its company representatives (or employees) to comply with the Code of Conduct (in so far as it applies to them) and to take appropriate action in the event of any failure in that regard by any company representative (or employee).
- (5) Disciplinary proceedings shall not be instituted under Part VII of these Rules against the Member in respect of a breach of the Code of Conduct by any company representative if the Member demonstrates to the satisfaction of the Board that it has taken all reasonably practicable steps to comply with paragraph (4) above and has adequately compensated (by payment of any sum or enhancement of the terms of any investment contract or otherwise) any investor adversely affected by the breach.

Appointment, and termination of appointment, of company representatives

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

- (iii) in relation to a whole life assurance, the tenth anniversary of the commencement of the policy, and also, if it is a with-profits whole life assurance other than a policy falling within Rule 5.6(1)(c), which commences before the person whose life is assured has reached the age of 60, the **first** anniversary of the commencement of the policy falling after he has reached the age of 75 (taking for this purpose, where there are two such persons, the older if the benefits are payable on the death of the first of them to die, and the younger in any other case);
 - (iv) in relation to a Holloway sickness policy, the latest date on which the sickness benefit will cease to be payable; and
 - (v) in relation to an immediate annuity, each anniversary of the commencement of the annuity falling at five yearly intervals beginning with the fifth **anniversary** of its commencement and ending with the last to fall before the annuitant reaches the age of 90, (taking for this purpose, in the case of a joint life annuity, the older of the two annuitants if the annuity ceases or is reduced on the death of the oldest, **and** the younger in any other case); and
- (b) any reference to the issuing of a projection includes a reference to the publication of the projection in any form and by any means.
- (3) For the purposes of this Part, **“future! benefit”** means -
- (a) where the contract is a whole life assurance, an endowment type assurance or a **Holloway** sickness policy, the benefit payable on death, on survival to a specified date or on disability or on surrender in whole or in part of the contract;
 - (b) where the contract is a pension contract, other than a contract for an immediate **annuity -**
 - (i) the benefit payable on, or from survival to, a specified date;
 - (ii) any benefit payable on or from **death**; or
 - (iii) the amount payable on the transfer of the investor’s accrued rights under the contract to another pension contract;
 - (c) in relation to units in a unit trust, means the cash value of those units;
 - (d) in relation to a contract for an immediate annuity, means the amount of the annuity payable at any date.
- (4) In this Part **“surrender value”**, in relation to an investment contract, means -
- (a) where the contract is a contract of life assurance or a contract for an annuity, the amount payable by the Member or other body issuing the contract on **surrender**;
 - (b) where the contract is a pension contract, the amount payable on the transfer of the investor’s accrued rights under that contract to another pension contract;
 - (c) where the contract is a Holloway sickness policy, the amount payable by the Member concerned on the surrender of the policy concerned on or before the projection date for the policy.

In this paragraph **“amount”** includes a nil amount.

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

Calculation of projections

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

In any case where a projection of a protected rights annuity under Ru5.5 or 5.6 is calculated in accordance with Rule 5.5(8), the relevant premium in the case of the projection calculated by reference to a transfer value is that transfer value, and any policy fee shall (in the case of either projection) be deducted from that value and not from any minimum contribution.

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

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

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

- (4) The amounts referred to in paragraph(3)(a) above are the following -
- (a) an amount equal to the cost of any rider benefits, calculated in accordance with paragraph 2(8) of Part I of Schedule 4 to these Rules;

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