

## Authorisation by Central Bank

1395. (1) An investment company shall not carry on business in the State unless it has been authorised to do so by the Central Bank on the basis of criteria approved by the Minister.

(2) A person shall not carry on business on behalf of an investment company, in so far as relates to the purchase or sale of the shares of the investment company, unless the investment company has been authorised in the manner referred to in subsection (1).

(3) The Central Bank shall not authorise an investment company to carry on business in the State unless the company has paid up share capital which, in the opinion of the Bank, will be sufficient to enable it to conduct its business effectively and meet its liabilities.

(4) An application by an investment company for the authorisation referred to in subsection (1) shall be made in writing to the Central Bank and contain such information as the Bank may specify for the purpose of determining the application (including such additional information as the Bank may specify in the course of determining the application).

(5) Where the Central Bank proposes to grant an authorisation to an investment company under this section and the Bank is satisfied that the company will raise capital by providing facilities for the direct or indirect participation by the public in the profits and income of the company, the Bank shall, in granting the authorisation, designate the company as a specially designated investment company which may raise capital in that manner, and “specially designated company” in this section and section 1396 shall be read accordingly.

(6) An existing investment company ) that, immediately before the commencement of this section, is a designated company within the meaning of section 256(5) of the Act of 1990, shall be regarded as a specially designated company for the purposes of this section and section 1396; a reference in any other enactment to a designated company (within the meaning of that section 256(5)) shall, on and from the commencement of this section, be read as a reference to a specially designated company.

(7) In the event that a specially designated company does not provide facilities for the direct or indirect participation by the public in the profits and income of the company within a period, not greater than 6 months, which shall be specified in the authorisation under this section, the company shall, on the expiry of the period so specified, be deemed to have ceased to be a specially designated company; for the purposes of the application of this subsection to a company referred to in subsection (6) the foregoing reference to an authorisation under this subsection shall be read as a reference to an authorisation under section 256 of the Act of 1990 and, accordingly, a company referred to in subsection (6) is subject to the same cessation of its status, as is provided by this subsection for investment companies otherwise, where—

(a) the period specified in the authorisation under that section 256 expires after the commencement of this section; and

(b) the company has not provided facilities for the direct or indirect participation by the public in the profits and income of the company within that period.

(8) An investment company which is not a specially designated company shall not raise capital by providing facilities for the direct or indirect participation by the public in the profits and income of the company.

(9) If a company contravenes subsection (1) or (8), the company and any officer of it who is in default shall be guilty of a category 2 offence.

(10) If a person contravenes subsection (2), the person shall be guilty of a category 2 offence.