
STATUTORY INSTRUMENTS

1996 No. 1322

FINANCIAL SERVICES

The Financial Services Act 1986 (Uncertificated Securities) (Extension of Scope of Act) Order 1996

Approved by Parliament

<i>Made</i>	- - - -	<i>16th May 1996</i>
<i>Laid before Parliament</i>		<i>16th May 1996</i>
<i>Coming into force</i>	- -	<i>15th July 1996</i>

The Treasury in exercise of the powers conferred on them by sections 2 and 205A(1) of the Financial Services Act 1986(2) and all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services Act 1986 (Uncertificated Securities) (Extension of Scope of Act) Order 1996 and shall come into force on 15th July 1996.

(2) In this Order “the Act” means the Financial Services Act 1986.

Amendments to the Act

2.—(1) After paragraph 16 of Schedule 1 to the Act there shall be added the following—

“Sending dematerialised instructions etc.

16A. Sending on behalf of another person dematerialised instructions relating to an investment by means of a relevant system in respect of which an Operator is approved under the Uncertificated Securities Regulations 1995(3), or offering or agreeing to do so, or causing on behalf of another person such instructions to be sent by such means or offering or agreeing to do so.

Notes

(1) Section 205A was inserted by section 206 of the Companies Act 1989 (1989 c. 40).
(2) 1986 c. 60. Certain functions of the Secretary of State under the Financial Services Act 1986, including the functions under section 2 of that Act, have been transferred to the Treasury by the Transfer of Functions (Financial Services) Order 1992 (S.I. 1992/1315).
(3) S.I. 1995/3272.

(1) This paragraph does not apply to a person by reason of his sending, or causing the sending of, instructions on behalf of—

- (a) a participating issuer or settlement bank acting in its capacity as such; or
- (b) an offeror making a takeover offer,

or by reason of his offering or agreeing to do so.

(2) For the purposes of this paragraph a person shall be taken to cause, or to offer or agree to cause, the sending of a dematerialised instruction only if he is a system-participant.

(3) In this paragraph—

“dematerialised instruction”, “participating issuer”, “relevant system”, “settlement bank”, “system-participant” and “Operator” have the meanings given by regulation 3 of the Uncertificated Securities Regulations 1995; and

“offeror” and “takeover offer” have the meanings given by section 428 of the Companies Act 1985(4).”

(2) After sub-paragraph (5) of paragraph 18 of Schedule 1 to the Act there shall be added the following—

“(5A) Paragraph 16A does not apply to a body corporate by reason of its sending, or causing the sending of, dematerialised instructions relating to an investment or offering or agreeing to do so if—

- (a) the person on whose behalf the instructions are, or are to be, sent or caused to be sent is a body corporate in the same group; and
- (b) the investment to which the instructions relate, or will relate, is one in respect of which a body corporate in the same group is registered as the holder on the appropriate register of securities, or will be so registered as a result of the instructions.

(5B) In sub-paragraph (5A) “register of securities” has the meaning given by regulation 3 of the Uncertificated Securities Regulations 1995.”

(3) After sub-paragraph (4) of paragraph 22 of Schedule 1 to the Act there shall be added the following—

“(4A) Paragraph 16A does not apply to a person by reason of his sending, or causing the sending of, dematerialised instructions relating to an investment held by him as trustee or as personal representative, or by reason of his offering or agreeing to do so.”

(4) After sub-paragraph (2) of paragraph 27 of Schedule 1 to the Act there shall be added the following—

“(3) Paragraph 16A does not apply to any offer made by an overseas person to or agreement made by him with a person in the United Kingdom if the offer or agreement is the result of—

- (a) an approach made to the overseas person by or on behalf of the person in the United Kingdom which either has not been in any way solicited by the overseas person, or has been solicited by him in a way which has not contravened section 56 or 57 of this Act; or
- (b) an approach made by the overseas person which has not contravened either of those sections.”

16th May 1996

Simon Burns
Derek Conway
Two of the Lords Commissioners of Her
Majesty's Treasury.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This is not part of the Regulations)

The Order amends the scope of the Financial Services Act 1986 (“the Act”) by extending the activities which constitute the carrying on of investment business.

Article 1 of the Order adds a new paragraph (paragraph 16A) to Part II of Schedule 1 to the Act. (Part II of Schedule 1 sets out the activities which constitute investment business.) The new paragraph is concerned with the sending on behalf of another person dematerialised instructions relating to an investment by means of a relevant system (within the meaning of the Uncertificated Securities Regulations 1995—S.I.1995/3272). The paragraph also concerns offers or agreements to send such instructions. The activities of certain persons are expressly excluded from the new paragraph.

Article 2 adds a sub-paragraph to paragraph 18 of Schedule 1 to the Act. It provides an exclusion in respect of activities falling within the new paragraph 16A in which one body corporate in a group engages on behalf on another body corporate in the same group.

Article 3 adds a sub-paragraph to paragraph 22 of Schedule 1 to the Act. It provides an exclusion in respect of activities falling within the new paragraph 16A engaged in by a trustee or personal representative.

Article 4 adds a sub-paragraph to paragraph 27 of Schedule 1 to the Act. It provides an exclusion in respect of offers or agreements by overseas persons to engage in activities falling within the new paragraph 16A where the offer or agreement is the result of an unsolicited approach made to the overseas person or is the result of an approach or solicitation by the overseas person which did not contravene the provisions of the Act relating to unsolicited calls and advertising.