

---

STATUTORY INSTRUMENTS

---

**1992 No. 225**

**The Uncertificated Securities Regulations 1992**

**PART II**

**THE OPERATOR, CONTROLLERS AND APPROVED PERSONS**

**CHAPTER I**

**THE OPERATOR**

**Operation of the system**

**4.** Subject to the consent of the Secretary of State being given under regulation 5, and in addition to any other duties imposed by these Regulations, it shall, to the extent that the Operator exercises relevant functions under these Regulations, be the duty of the Operator, owed to the Secretary of State:

- (a) to operate the Operator's part of the system;
- (b) to admit and supervise participants;
- (c) to maintain such computer-based facilities as are reasonably necessary to enable the Operator to comply with its functions under these Regulations;
- (d) to ensure that at all times the conditions specified in regulation 5(1)(b)(i) to (iii) are satisfied;
- (e) to co-operate, by the sharing of information and otherwise, with the Secretary of State and any other body or authority having responsibility for the supervision of investment business and other financial services; and
- (f) to have regard, in performing its functions under these Regulations, to the protection of investors.

**Commencement of operation of system**

**5.—(1)** If the function of admitting securities into the system is delegated to it, the Operator shall not admit the first security into the system unless it has notified the Secretary of State that:

- (a) a compensation scheme has been established in accordance with Part XIV of these Regulations;
- (b) it is satisfied that it is ready and able to perform the duties specified in regulation 4 and that:
  - (i) there exist the facilities required under regulation 4(c), that they comply with these Regulations, that it is ready to operate them effectively and efficiently and that it has in place in relation to the facilities and their operation appropriate safeguards to reduce, so far as it is reasonably practicable to do so, the possibility of error or fraud and of unauthorised access to, or manipulation of, data or programs for the time being on or transmitted through, the facilities;

- (ii) if relevant functions in relation to the admission and supervision of participants are delegated to it, each participant is required to have in place safeguards to reduce, so far as it is reasonably practicable to do so, the possibility of unauthorised access, to or manipulation of, data or programs for the time being on, or transmitted through, the facilities of the Operator;
- (iii) if the function of admitting participants is delegated to it, it has properly performed its obligations in connection with those persons whom at the date of the notification it has agreed to admit as participants

and the Secretary of State has given his consent.

(2) The Secretary of State shall not refuse consent under paragraph (1) unless it appears to him that the Operator's notification to him under that paragraph is not well-founded.

### **Powers of Secretary of State to give directions**

6.—(1) The Secretary of state shall consider;

- (a) any relevant complaint made to him;
- (b) any information in any report made to him by the Operator under regulation 7;
- (c) any information in a report made to him by the Complaints Commissioner

for the purpose of determining whether he should give directions to the Operator in accordance with paragraph (2).

(2) If, whether or not as a result of any such complaint or information, at any time the Secretary of State concludes that the Operator is failing or may be about to fail to perform its functions under these Regulations, or that if a notification were then made to him under regulation 5(1) he could not give his consent, he may give to the Operator such directions as he considers necessary to secure that such failures are corrected or that matters are such that he could give his consent.

(3) Before giving a direction under this regulation the Secretary of State shall, if circumstances permit, consult the Operator and afford it an opportunity to make representations.

(4) In deciding whether to give a direction under this regulation, the Secretary of State shall, so far as it is practicable to estimate it, take into account the cost to the operator of complying with the direction and costs to other persons resulting from the operator's compliance.

(5) It shall be the duty of the Operator, owed to the Secretary of State, to comply with a direction under this regulation.

(6) The Operator shall furnish the Secretary of State with such information as he may reasonably require for the purpose of exercising his functions under this regulation or regulation 5 and, for these purposes, may give such directions to participants as it considers necessary.

Any information to be furnished to the Secretary of State shall, if he so requires, be in such form or verified in such manner as he may specify.

(7) Section 192(1), (4) and (6) of the 1986 Act<sup>(1)</sup> (International Obligations) shall apply to the Operator as it applies to the persons mentioned in subsection (2) of that section.

### **Operator's report**

7.—(1) The Operator shall made such reports to the Secretary of State on or in connection with the discharge of its functions under these Regulations as the Secretary of State may require.

---

(1) Section 192 of the Financial Services Act 1986 (c. 60) was substituted by section 201 of the Companies Act 1989 (c. 40).

(2) Without prejudice to the generality of paragraph (1), the Secretary of State may require that reports deal with specified subjects, or specified periods of time, and may require that they set out details of complaints received by the Operator and of the Operator's response to complaints.

### **Powers of Secretary of State to substitute new Operator**

8.—(1) If at any time:

- (a) the Secretary of State considers that there exist, or are about to exist, conditions which would enable him to give a direction under regulation 6, but that such a direction would not secure that the relevant failures were corrected or that matters were such that he could give the consent referred to in that regulation; or
- (b) the Operator so requests,

the Secretary of State may substitute another person (including one whom he has established for the purpose) as the Operator.

Before substituting a person under sub-paragraph (a), the Secretary of State shall, if circumstances so permit, inform the Operator of the grounds upon which he proposes to make the substitution and afford the operator an opportunity to make representations.

(2) The Secretary of state may, in connection with any such substitution, by instrument in writing, make provision:

- (a) for the carrying on and completion by the substituted Operator of anything in the process of being done by the former Operator at the time of the substitution; and
- (b) for the substitution of the substituted Operator for the former Operator in any instrument, contract or legal proceedings.

(3) The Secretary of State may direct that property of the former operator shall be made available to the substituted Operator for the purpose of enabling the substituted Operator to exercise its functions under these Regulations to such extent, and for such period, as appears to him to be necessary to ensure that the system continues to function in an orderly manner and that investors are properly protected; and it shall be the duty of the former Operator, and any insolvency practitioner acting in relation to the former operator, to comply with any such direction.

(4) Nothing in paragraph (3) shall be taken as enabling the Secretary of State to deprive the former operator of the use of any property without securing the payment of appropriate compensation, whether at the time of the direction or as soon as circumstances permit its calculation, having regard to any liabilities (including contingent liabilities) or obligations which the substituted operator may assume.

In exercising the powers conferred on him by paragraph (3), the Secretary of State shall have regard to any other purposes for which the property is being used by the Operator acting in any other capacity recognised or conferred by any enactment.

(5) It shall be the duty of a former Operator, notwithstanding that it is the subject of insolvency proceedings, to preserve any records it may hold relating to the system until transferred to the substituted Operator under paragraph (3) or for five years (whichever is the shorter period).

Any insolvency practitioner appointed in relation to the Operator shall be under the same duty.

(6) It shall be the duty of a substituted Operator which has received any records, or copies of records, under this regulation, to permit their inspection and copying by any person who is an officer of the former Operator, or any insolvency practitioner appointed in relation to that Operator, or the official receiver.

(7) Functions delegated to a former Operator shall be deemed to be delegated to a substituted Operator.

---

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

---