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STATUTORY INSTRUMENTS

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**1992 No. 225**

**The Uncertificated Securities Regulations 1992**

**PART XIV**

**COMPENSATION**

**The compensation scheme**

**105.**—(1) The Operator shall make provision for a scheme for compensating investors falling within regulation 100(1) who have suffered loss (other than loss arising as a result of a failure to perform functions as a company, company's agent or company controller) such as is mentioned in regulation 100(1) where:

- (a) the Complaints Commissioner has recommended a payment or transfer of units of a security to any person and 20 working days have elapsed since the sending of the report under regulation 100 without the recommendation being acted on in full or the matter referred to the tribunal; or
- (b) the tribunal has determined an amount recoverable and 20 working days have elapsed since the determination without the determination being acted on in full or proceedings being started in respect of the payment; or
- (c) a court of competent jurisdiction has awarded an amount and 20 working days have elapsed since the order of the court without the award being paid in full

and in any other case provided for in the rules of the scheme.

(2) Subject to the following paragraphs the amount of compensation payable shall be such amount as is equal to the value, at the date when compensation is paid (or such date not more than 5 working days before that date as may be fixed to allow for the efficient administration of the scheme) of the lost units and any lost benefits which are the subject of the claim together with the value, at the relevant date and after taking into account any consideration that the claimant would have had to give, of any new units which are the subject of the claim and also taking into account any amount received in respect of the loss.

(3) Where an election has been made under regulation 104, the amount of compensation payable shall, subject to paragraph (4) below, be calculated on the basis described in that regulation taking account of any amount received in respect of the loss from any person who caused it.

(4) Notwithstanding the provisions of paragraphs (2) and (3) above, the amount payable or the value on the relevant date of the securities to be transferred pursuant to a recommendation, determination or award made as mentioned in paragraph (1) above shall, if less than the amount otherwise payable under paragraph (2) or (3) above, be the amount or value of the compensation to be paid.

(5) The scheme may make provision for claims to be satisfied, where no election has been made under regulation 104, either wholly by a monetary payment or by the transfer to the person concerned of equivalent units of a security to the lost units, together with a monetary payment in respect of any lost benefits and references in this regulation to the payment of compensation shall be construed accordingly.

(6) Subsections (1), (2) and (6) of section 54 of the 1986 Act shall apply to the Operator for and in connection with the carrying out of its functions under this regulation:

- (a) with the substitution for references to the Secretary of State of references to the Operator;
- (b) with the substitution for references to authorised persons of references to participants;
- (c) with the substitution for the words following “investors” in subsection (1) of a reference to investors falling within regulation 100(1); and
- (d) with the insertion after the words “payable and” in subsection (2)(d) of the following words: “any class of investor for whom or any”.

(7) The Operator may not make rules imposing a limit on the compensation payable to any person eligible for compensation which is less than £250,000 in respect of a claim or claims arising from the failure of any one participant to perform functions and duties under these Regulations.

(8) The Secretary of State may from time to time direct that a higher figure should be substituted for the figure in paragraph (7) provided that the first amount by which the figure may be increased shall not be greater than is necessary to reflect any change in the value of money since the date on which these Regulations were made and that each subsequent increase shall not be greater than is necessary to reflect any change in the value of money since the last such increase.

(9) Provision shall be made in the scheme for compensation to abate if, and to the extent, that it is necessary for abatement to take place in order to ensure that the total amount of compensation paid in respect of claims made in any period of twelve months commencing on the date on which the Secretary of State gives his consent under regulation 5 or any anniversary thereof does not exceed £100 million.