
STATUTORY INSTRUMENTS

1995 No. 3272

The Uncertificated Securities Regulations 1995

PART II

THE OPERATOR

Miscellaneous

Delegation of Treasury functions

11.—(1) If it appears to the Treasury that there is a body corporate—

- (a) to which functions have been transferred under section 114 of the 1986 Act; and
- (b) which is able and willing to discharge all or any of the functions conferred by this Part of these Regulations,

they may, subject to paragraphs (2) and (3), by instrument in writing delegate all or any of those functions to that body; and a body to which functions are so delegated is referred to in these Regulations as a “designated agency”.

(2) The functions conferred on the Treasury by regulation 12 may not be delegated.

(3) A designated agency shall send to the Treasury a copy of any guidance issued by virtue of these Regulations and any requirements imposed by it on the Operator by virtue of regulation 10, and give them written notice of any amendment or revocation of or addition to any such guidance or requirements.

(4) A designated agency shall—

- (a) send to the Treasury a copy of any guidance issued by it which is intended to have continuing effect and is issued in writing or other legible form; and
- (b) give them written notice of any amendment, revocation of or addition to guidance issued by it,

but notice need not be given of the revocation of guidance other than is mentioned in subparagraph (a) or of any amendment or addition which does not result in or consist of such guidance as is there mentioned.

(5) The Treasury shall not delegate any function to a designated agency unless they are satisfied that—

- (a) any guidance issued by it in the exercise of its functions under these Regulations;
- (b) requirements imposed by it on the Operator by virtue of regulation 10;
- (c) any guidance proposed to be issued by it in the exercise of its functions under these Regulations; or
- (d) any requirements it proposes to impose on the Operator by virtue of regulation 10,

do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, or if they have or are intended or likely to have that effect to any significant extent, that the effect is not greater than is necessary for the protection of investors.

(6) The powers conferred by paragraph (7) shall be exercisable by the Treasury if at any time it appears to them that—

- (a) any guidance issued by the designated agency in the exercise of its functions under these Regulations;
- (b) requirements imposed by the designated agency on the Operator by virtue of regulation 10; or
- (c) any practices of a designated agency followed in the exercise of its functions under these Regulations,

have, or are intended or are likely to have, to any significant extent the effect of restricting, 9 distorting or preventing competition and that the effect is greater than is necessary for the protection of investors.

(7) The powers exercisable under this paragraph are—

- (a) to resume all or any of the functions delegated to the designated agency by the written instrument referred to in paragraph (1); or
- (b) to direct the designated agency to take specified steps for the purpose of securing that the guidance, requirements or practices in question do not have the effect mentioned in paragraph (6).

(8) The Treasury may by written instrument—

- (a) at the request or with the consent of a designated agency; or
- (b) if at any time it appears to them that a designated agency is unable or unwilling to discharge all or any of the functions delegated to it,

resume all or any of the functions delegated to the agency under paragraph (1).

(9) Section 187(3) of the 1986 Act shall apply in relation to anything done or omitted in the discharge or purported discharge of functions delegated under paragraph (1) as it applies in relation to anything done or omitted to be done in the discharge or purported discharge of functions exercisable by virtue of a delegation order made by virtue of section 114 of the 1986 Act.

(10) In this regulation—

- (a) any reference to guidance issued to an Operator by a designated agency is a reference to any guidance issued or any recommendation made by the designated agency in writing, or other legible form, which is intended to have continuing effect, and is issued or made to an Operator; and
- (b) references to the practices of the designated agency are references to the practices of the designated agency in its capacity as such.

International obligations

12.—(1) If it appears to the Treasury—

- (a) that any action proposed to be taken by an Operator or designated agency would be incompatible with Community obligations or any other international obligations of the United Kingdom; or
- (b) that any action which an Operator or designated agency has power to take is required for the purpose of implementing any such obligation,

they may direct the Operator or designated agency not to take or, as the case may be, to take the action in question.

(2) A direction under this regulation may include such supplementary or incidental requirements as the Treasury think necessary or expedient.

(3) Where the function of granting under regulation 5, or withdrawing under regulation 7, an Operator's approval is exercisable by a designated agency, any direction under paragraph (1) in respect of that Operator shall be a direction requiring the agency to give the Operator such a direction as is specified in the direction by the Treasury.

(4) Any direction under this regulation is enforceable on application of the person who gave it, by injunction or, in Scotland, by an order under section 45 of the Court of Session Act 1988⁽¹⁾.

Prevention of restrictive practices

13. Schedule 2 (which reproduces, with necessary modifications, the provisions of sections 119, 120 and 122 to 126 and 128 of the 1986 Act) shall have effect.