
STATUTORY INSTRUMENTS

1995 No. 3272

The Uncertificated Securities Regulations 1995

PART II

THE OPERATOR

Supervision

Withdrawal of approval

7.—(1) If at any time it appears to the Treasury that any requirement of Schedule 1 is not satisfied, or that an Operator has failed to comply with any obligation to which he is subject by virtue of these Regulations, they may, by written instrument, subject to paragraph (2), withdraw approval from that Operator.

(2) Subsections (2) to (9) of section 11 of the 1986 Act shall apply in relation to the withdrawal of approval from an Operator under paragraph (1) as they apply in relation to the revocation of a recognition order under subsection (1) of that section; and in those subsections as they so apply—

- (a) any reference to a recognised organisation shall be taken to be a reference to an Operator; and
- (b) any reference to members of a recognised organisation shall be taken to be a reference to system-users.

Compliance orders and directions

8.—(1) If at any time it appears to the Treasury that any requirement of Schedule 1 is not satisfied, or that an Operator has failed to comply with any obligation to which he is subject by virtue of these Regulations, they may—

- (a) make an application to the court; or
- (b) subject to paragraph (3), give to the Operator such directions as they think fit for securing that the relevant requirement is satisfied or obligation complied with.

(2) If on any application by the Treasury under paragraph (1)(a) the court is satisfied that the requirement is not satisfied or, as the case may be, that the Operator has failed to comply with the obligation in question, it may order the Operator to take such steps as the court directs for securing that the requirement is satisfied or that the obligation is complied with.

(3) Before giving a direction under paragraph (1)(b) the Treasury shall—

- (a) if circumstances permit, consult the Operator and afford him an opportunity to make representations; and
- (b) so far as it is practicable to estimate it, have regard to the cost to the Operator of complying with any term of any direction and to the costs to other persons resulting from the Operator's compliance.

(4) The jurisdiction conferred by paragraph (2) shall be exercised by the High Court and the Court of Session.

Injunctions and restitution orders

9.—(1) If on the application of the Treasury the court is satisfied that—

- (a) there is a reasonable likelihood that any person will contravene any provision of the rules of an Operator to which that person is subject and which regulate the carrying on by him of investment business within the meaning of the 1986 Act;
- (b) any person has contravened any such rule, and that there is a reasonable likelihood that the contravention will continue or be repeated; or
- (c) any person has contravened any such rule, and that there are steps that could be taken for remedying the contravention,

the court may grant an injunction restraining the contravention or, in Scotland, an interdict prohibiting the contravention or, as the case may be, make an order requiring that person and any other person who appears to the court to have been knowingly concerned in the contravention to take such steps as the court may direct to remedy it.

(2) Subsections (2) to (9) of section 61 of the 1986 Act shall apply in relation to the application of the Treasury for an injunction or, in Scotland, an interdict under paragraph (1) as they have effect in relation to the application of the Secretary of State for an injunction or, in Scotland, an interdict under subsection (1) of that section; and in those subsections as they so apply—

- (a) the reference to a recognised clearing house shall be taken to be a reference to an Operator;
- (b) the reference in subsection (2) to such rules as are mentioned in subsection (1)(a)(iv) shall be taken to be a reference to the rules mentioned in paragraph (1)(a);
- (c) the reference to such steps as are mentioned in subsection (1) shall be taken to be a reference to such steps as are mentioned in paragraph (1);
- (d) the reference in subsection (3)(a) to profits having accrued to any person as a result of his contravention of any provision or condition mentioned in subsection (1)(a) shall be taken to be a reference to profits having accrued to any person as a result of his contravention of any rule mentioned in paragraph (1)(a);
- (e) the references to subsection (3) shall be taken to be references to that subsection as it so applies.

Provision of information by Operators

10.—(1) The Treasury may, in writing, require an Operator to give them such information as they may specify.

(2) The Treasury may, in writing, require an Operator to furnish them at such times or in respect of such periods as they may specify with such information relating to that Operator as is so specified.

(3) Where an Operator amends, revokes or adds to his rules or guidance he shall within seven days give written notice to the Treasury of the amendment, revocation or addition.

(4) The notices and information required to be given or furnished under the foregoing provisions of this regulation shall be such as the Treasury reasonably require for the exercise of their functions under these Regulations.

(5) The Treasury may require information to be given by a specified time, in a specified form and to be verified in a specified manner.