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STATUTORY INSTRUMENTS

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**1996 No. 2958**

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

**Custody of investments**

3. After paragraph 13 of Schedule 1 to the Act there shall be inserted the following—

**“Custody of Investments**

**13A.—**(1) Safeguarding and administering or arranging for the safeguarding and administration of assets belonging to another where—

- (a) those assets consist of or include investments; or
- (b) the arrangements for their safeguarding and administration are such that those assets may consist of or include investments and the arrangements have at any time been held out as being arrangements under which investments would be safeguarded and administered.

(2) Offering or agreeing to safeguard and administer, or to arrange for the safeguarding and administration of, assets belonging to another where the circumstances fall within subparagraph (1)(a) or (b) above.

*Notes*

(1) This paragraph does not apply to a person by reason of his safeguarding and administering assets, or offering or agreeing to do so, under arrangements—

- (a) under which another person (“the primary custodian”), who is permitted to provide a service falling within this paragraph, undertakes to the person to whom the assets belong a responsibility in respect of the assets which is no less onerous than the responsibility which the primary custodian would undertake to that person if the primary custodian were safeguarding and administering the assets himself, and
- (b) which are operated by the primary custodian in the course of carrying on in the United Kingdom investment business falling within this paragraph.

(2) None of the following activities constitutes the administration of assets—

- (a) providing information as to the number of units or the value of any assets safeguarded;
- (b) converting currency; and
- (c) receiving documents relating to an investment solely for the purpose of onward transmission to, from or at the direction of the person to whom the investment belongs.

(3) For the purposes of this paragraph it is immaterial that the assets safeguarded and administered—

- (a) constitute units of a security, title to which is recorded on the relevant register of securities as being held in uncertificated form; or

- (b) may be transferred to another person, subject to a commitment by the person safeguarding and administering them, or arranging for their safeguarding and administration, that they will be replaced by equivalent assets at some future date or when so requested by the person to whom they belong.

(4) This paragraph does not apply to arrangements for the introduction of persons to another person if—

- (a) the person to whom the introduction is made is permitted to provide a service falling within this paragraph; and
- (b) the introduction is made with a view to the provision in the United Kingdom of a service falling within this paragraph or the making of arrangements operated in the United Kingdom for the provision of a service falling within this paragraph by a person who is not connected with the person by whom the introduction is made.

For the purposes of this Note, the person making the introduction shall be regarded as connected with the other person if he is either a body corporate in the same group as that other person or remunerated by that other person.

(5) For the purposes of Notes (1) and (4) above, a person is permitted to provide a service falling within this paragraph if—

- (a) he is an authorised person who may provide that service—
  - (i) without contravening any rules that apply to him under section 48 of this Act; or
  - (ii) by virtue of his membership of a recognised self-regulating organisation or his certification by a recognised professional body; or
- (b) he is an exempted person as respects any investment business which consists of or includes that service; or
- (c) he is entitled to carry on investment business in the United Kingdom which consists of or includes that service pursuant either to regulation 5 of the Banking Coordination (Second Council Directive) Regulations 1992<sup>(1)</sup> or to regulation 5 of the Investment Services Regulations 1995<sup>(2)</sup>.

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(1) S.I. 1992/3218.  
(2) S.I. 1995/3275.