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STATUTORY INSTRUMENTS

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**1996 No. 2996**

**FINANCIAL SERVICES**

**The Financial Services Act 1986 (Restriction of Scope of Act and Meaning of Collective Investment Scheme) Order 1996**

<i>Made</i>	- - - -	<i>28th November 1996</i>
<i>Laid before Parliament</i>		<i>29th November 1996</i>
<i>Coming into force</i>	- -	<i>1st January 1997</i>

The Treasury, in exercise of the powers conferred on them<sup>(1)</sup> by sections 2 and 75(9) of the Financial Services Act 1986<sup>(2)</sup> and of all other powers enabling them in that behalf hereby make the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Financial Services Act 1986 (Restriction of Scope of Act and Meaning of Collective Investment Scheme) Order 1996.

(2) This Order shall come into force on 1st January 1997.

(3) In this Order, “the Act” means the Financial Services Act 1986.

*Restriction of scope of Act*

**Amendment of Part III of Schedule 1 to the Act**

2.—(1) Nothing in paragraphs 17 to 19 and 21 of Schedule 1 to the Act shall have the effect that the provision of any core investment service to third parties on a professional basis is excluded from the activities which fall within the paragraphs in Part II of that Schedule in any case in which the service is provided—

(a) by a UK investment firm; or

(b) by an investment firm which would be a UK investment firm if it was incorporated or formed under the law of any part of the United Kingdom or, being an individual, had his head office in the United Kingdom.

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(1) The functions conferred by sections 2 and 75(9) of the Financial Services Act 1986 are now vested in the Treasury—see the Transfer of Functions (Financial Services) Order 1992 (S.I. 1992/1315).

(2) 1986 c. 60.

(2) In this article, “core investment service”, “investment firm” and “UK investment firm” have the meanings assigned to those expressions by regulation 2 of the Investment Services Regulations 1995(3).

(3) In consequence of the provisions made by this article, paragraph (1) of article 6 of the Financial Services Act 1986 (Investment Services) (Extension of Scope of Act) Order 1995(4) is hereby revoked.

### *Meaning of collective investment scheme*

#### **Meaning of collective investment scheme**

3.—(1) In section 75(6)(1)(5) of the Act, for the words “paragraph 34 or 35” there shall be substituted “any of paragraphs 34 to 36”.

(2) In Schedule 1 to the Act, after paragraph 35(6) there shall be inserted—

“(36) —

(1) For the purposes of this Schedule, arrangements are not a collective investment scheme if they are operated by a body corporate, a body corporate connected with it or a relevant trustee, for the purpose of enabling or facilitating transactions in shares in or debentures of the first-mentioned body between or for the benefit of any of the persons mentioned in sub-paragraph (2) below or the holding of such shares or debentures by or for the benefit of any such persons.

(2) The persons referred to in sub-paragraph (1) above are—

- (a) the bona fide employees or former employees of the body corporate or of another body corporate in the same group; or
- (b) the wives, husbands, widows, widowers, or children or step-children under the age of eighteen of such employees or former employees.

(3) In this paragraph, “a relevant trustee” means a person holding shares in or debentures of a body corporate as trustee in pursuance of arrangements mentioned in sub-paragraph (1) above which were made by, or by a body corporate connected with, that body corporate.

(4) In this paragraph “shares” and “debentures” include any investment falling within paragraph 1 or 2 above and also include any investment falling within paragraph 4 or 5 above so far as relating to those paragraphs or any investment falling within paragraph 11 above so far as relating to paragraphs 1, 2, 4 or 5.

(5) For the purposes of this paragraph a body corporate is connected with another body corporate if—

- (a) they are in the same group; or
- (b) one is entitled, either alone or with any other body corporate in the same group, to exercise or control the exercise of a majority of the voting rights attributable to the share capital which are exercisable in all circumstances at any general meeting of the other body corporate or its holding company..”

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(3) S.I. 1995/3275.

(4) S.I. 1995/3271.

(5) Section 75(6)(1) was inserted by the Financial Services Act 1986 (Restriction of Scope of Act and Meaning of Collective Investment Scheme) Order 1990 (S.I. 1990/349).

(6) Paragraph 35 was inserted by the Financial Services Act 1986 (Restriction of Scope of Act and Meaning of Collective Investment Scheme) Order 1990 (S.I. 1990/349).

28th November 1996

*Patrick McLoughlin*  
*Richard Ottaway*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Order restricts the scope of Part I of the Financial Services Act 1986 (the Act) and of the meaning given to the expression “collective investment scheme” in section 75 of that Act.

Article 2 of the Order amends Part III of Schedule 1 to the Act so that it does not have the effect that activities falling within the scope of Council Directive [93/22/EEC](#) on investment services in the securities field (OJNo. L141, 11.6.93, p. 27) (the Directive) are treated as constituting investment business within the meaning of the Act for circumstances in which the Directive does not require them to be so treated. Article 2 also revokes article 6(1) of the Financial Services Act 1986 (Investment Services) (Extension of Scope of Act) Order 1995 (S.I. [1995/3271](#)) which had the effect that the activities referred to above constituted investment business in circumstances not required by the Directive.

Article 3 of the Order amends the references to collective investment schemes in Schedule 1 to the Act. It excludes from those references any employees share schemes that meet the conditions set out in the inserted paragraph 36. It also amends section 75 of the Act so that such schemes are excluded from the definition contained in that section of what constitutes a collective investment scheme.