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STATUTORY INSTRUMENTS

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**1997 No. 2543**

**FINANCIAL SERVICES**

**The Financial Services Act 1986 (Extension of  
Scope of Act) Order 1997 (Approved by Parliament)**

*Made* - - - - 27th October 1997  
*Laid before Parliament* 27th October 1997  
*Coming into force* - - 10th November 1997

The Treasury in the exercise of the powers conferred on them by sections 2 and 205A(1) of the Financial Services Act 1986(2) and of all other powers enabling them in that behalf hereby make the following Order:—

**Citation and commencement**

1.—(1) This Order may be cited as the Financial Act 1986 (Extension of Scope of Act) Order 1997.

(2) This Order shall come into force on 10th November 1997.

**Dematerialised instructions sent etc through CGO Service**

2.—(1) Paragraph 16A(3) of Schedule 1 to the Financial Services Act 1986 (sending dematerialised instructions etc as activity constituting investment business) shall be amended as follows.

(2) For paragraph 16A there shall be substituted—

*“Sending dematerialised instructions etc*

**16A.** Sending on behalf of another person dematerialised instructions relating to an investment by means of—

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- (1) Section 205A was inserted by section 206 of the Companies Act 1989 (c. 40).  
(2) 1986 c. 60. Certain functions of the Secretary of State under the Financial Services Act 1986, including functions under section 2 of that Act, have been transferred to the Treasury by the Transfer of Functions (Financial Services) Order 1992 (S.I.1992/1315).  
(3) Paragraph 16A (including the Notes to that paragraph) was inserted into Schedule 1 by article 2(1) of the Financial Services Act 1986 (Uncertificated Securities) (Extension of Scope of Act) Order 1996 (S.I. 1996/1322).

- (a) a relevant system in respect of which an Operator is approved under the Uncertificated Securities Regulations 1995(4); or
- (b) a computer-based system, established by the Bank of England and the London Stock Exchange, through the medium of which specified securities may be transferred or allotted without the need for an instrument in writing,

or offering or agreeing to do so, or causing on behalf of another person such instructions to be sent by such means or offering or agreeing to do so.”.

(3) In Note (1), after the word “instructions” there shall be inserted “by means of a system falling within (a) above”.

(4) After Note (1) there shall be inserted—

“(1A) This paragraph does not apply to a person—

- (a) by reason of his sending, or causing the sending of, instructions by means of a system falling within (b) above on behalf of a settlement bank acting in its capacity as such, or by reason of his offering or agreeing to do so; or
- (b) by reason of any activity in which he engages, or in which he offers or agrees to engage, at a time when he is accredited by the Bank of England as a provider of a network for the purposes of a system falling within (b) above and which is a necessary part of the provision of such a network.”.

(5) For Notes (2) and (3) there shall be substituted—

“(2) For the purposes of this paragraph a person shall be taken to cause, or to offer or agree to cause, the sending of a dematerialised instruction only if—

- (a) in the case of a system falling within (a) above, he is a system-participant; and
- (b) in the case of a system falling within (b) above, he is a person who, under an agreement with the Bank of England, is responsible for the operation of, and the maintenance of security over, a gateway.

(3) In this paragraph—

“dematerialised instruction”—

- (a) in relation to a system falling within (a) above, has the meaning given by regulation 3 of the Uncertificated Securities Regulations 1995, and
- (b) in relation to a system falling within (b) above, means an instruction sent by means of a gateway;

“gateway”, in relation to a system falling within (b) above, means computer hardware and software by means of which instructions are authenticated and encrypted for processing by the system;

“offeror” has the meaning given by section 428 of the Companies Act 1985(5);

“Operator”, “participating issuer” and “relevant system” have the meaning given by regulation 3 of the Uncertificated Securities Regulations 1995;

“settlement bank”—

- (a) in relation to a system falling within (a) above, has the meaning given by regulation 3 of the Uncertificated Securities Regulations 1995, and
- (b) in relation to a system falling within (b) above, means a person who has agreed to make payments in connection with the discharge of debts or liabilities arising

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(4) S.I. 1995/3272.

(5) 1985 c. 6; section 428 was substituted by section 172 of, and Schedule 12 to, the Financial Services Act 1986.

from the transfer or allotment of specified securities made through the medium of that system;  
“specified securities” has the meaning given by the Stock Transfer Act 1982<sup>(6)</sup>;  
“system-participant” has the meaning given by regulation 3 of the Uncertificated Securities Regulations 1995;  
“takeover offer” has the meaning given by section 428 of the Companies Act 1985.”.

### **Consequential amendment**

**3.** In Schedule 1 to the Financial Services Act 1986, in paragraph 18(7) (certain group etc activities not constituting investment business) for paragraph (5B) there shall be substituted—

“(5B) In sub-paragraph (5A) “register of securities”—

- (a) in relation to a system falling within paragraph 16A(a) above, has the meaning given by regulation 3 of the Uncertificated Securities Regulations 1995; and
- (b) in relation to a system falling within paragraph 16A(b) above, means a register of holders of specified securities (within the meaning of the Stock Transfer Act 1982) which is kept by the Bank of England.”.

27th October 1997

*Bob Ainsworth*  
*Graham Allen*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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<sup>(6)</sup> 1982 c. 41.

<sup>(7)</sup> Paragraph 18(5B) was inserted into Schedule 1 by article 2(2) of the Financial Services Act 1986 (Uncertificated Securities) (Extension of Scope of Act) Order 1996 (S.I. 1996/1322).

**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 extends the activities that constitute the carrying on of investment business for the purposes of the Financial Services Act 1986 (“FSA”) so as to include certain activities carried on in order to communicate through the computer-based system established under the Stock Transfer Act 1982. That system was established for the purposes of transferring or allotting certain Government and other securities without the need for a written instrument. The system and its associated procedures are sometimes referred to as the CGO (Central Gifts Office) Service.

Article 2 amends paragraph 16A of Schedule 1 to the FSA, and the Notes to that paragraph, to extend the activities listed in that paragraph so as to cover instructions sent by means of the system and to provide for certain exemptions. Paragraph 18 of Schedule 1 to the FSA is consequentially amended by Article 3.