
STATUTORY INSTRUMENTS

1997 No. 2543

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

Dematerialised instructions sent etc through CGO Service

2.—(1) Paragraph 16A(1) 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—

- (a) a relevant system in respect of which an Operator is approved under the Uncertificated Securities Regulations 1995⁽²⁾; 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

(1) 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).

(2) S.I. 1995/3272.

- (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⁽³⁾;
- “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 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⁽⁴⁾;
- “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.”.

⁽³⁾ 1985 c. 6; section 428 was substituted by section 172 of, and Schedule 12 to, the Financial Services Act 1986.

⁽⁴⁾ 1982 c. 41.