
STATUTORY INSTRUMENTS

1995 No. 3272

The Uncertificated Securities Regulations 1995

PART II

THE OPERATOR

Approval and compliance

Applications for approval

4.—(1) A person may apply to the Treasury for their approval of him as Operator of a relevant system.

(2) Any such application—

(a) shall be made in such a manner as the Treasury may direct; and

(b) shall be accompanied by such information as the Treasury may reasonably require for the purpose of determining the application.

(3) At any time after receiving an application and before determining it, the Treasury may require the applicant to furnish additional information.

(4) The directions and requirements given or imposed under paragraphs (2) and (3) may differ as between different applications.

(5) Any information to be furnished to the Treasury under this regulation shall, if they so require, be in such form or verified in such manner as they may specify.

(6) Every application shall be accompanied by a copy of any rules and guidance to be issued by the applicant.

Grant and refusal of approval

5.—(1) If, on an application made under regulation 4, it appears to the Treasury that the requirements of Schedule 1 are satisfied with respect to the application, they may—

(a) subject to the payment of any fee charged by virtue of regulation 6(1); and

(b) subject to the provisions of Schedule 2,

approve the applicant as Operator of a relevant system.

(2) An approval under this regulation shall be by instrument in writing and shall state the date on which it takes effect.

(3) Schedule 1 (which imposes requirements which must appear to the Treasury to be satisfied with respect to an Operator, the relevant system and his rules and practices) shall have effect.

(4) Where the Treasury refuse an application for approval they shall give the applicant a written notice to that effect stating the reasons for the refusal.

Fees

6.—(1) The Treasury may charge a fee to a person seeking approval as Operator of a relevant system.

(2) The Treasury may charge an Operator a periodical fee.

(3) Any fee chargeable by the Treasury under this regulation shall not exceed an amount which reasonably represents the amount of costs incurred—

- (a) in the case of a fee charged to a person seeking approval, in determining whether approval ought to be granted; and
- (b) in the case of a periodical fee, in satisfying themselves that the Operator and the relevant system in question continue to meet the requirements of Schedule 1 to these Regulations and that the Operator is complying with any obligations to which he is subject by virtue of them.

(4) For the purposes of paragraph (3), the costs incurred by the Treasury shall be determined on the basis that they include such proportion of the following matters as are properly attributable to the performance of the relevant function—

- (a) expenditure on staff, equipment, premises, facilities, research and development;
- (b) the allocation, over a period of years, whether before or after the coming into force of these Regulations, of any initial expenditure incurred wholly and exclusively to perform the function or to prepare for its performance;
- (c) any notional interest incurred on any capital expended on or in connection with the performance of the function or in preparing for its performance and, in a case in which any function is exercisable by a designated agency, any actual interest payable on any sums borrowed which have been so expended; and
- (d) any other matter which, in accordance with generally accepted accounting principles, may properly be taken account of in ascertaining the costs properly attributable to the performance of the function.

(5) For the purposes of paragraph (4)(c)—

- (a) “notional interest” means any interest which that person might reasonably have been expected to have been liable to pay had the sums expended been borrowed at arm’s length; and
- (b) “actual interest” means the actual interest paid on sums borrowed in a transaction at arm’s length and, where a sum has been borrowed otherwise than in such a transaction, means whichever is the lesser of the interest actually paid and the interest that might reasonably have been expected to be paid had the transaction been at arm’s length.

(6) Any fee received by the Treasury under this regulation shall be paid into the Consolidated Fund.

(7) Any fee received by a designated agency under this regulation may be retained by it.