

---

STATUTORY INSTRUMENTS

---

**2001 No. 1228**

The Open-Ended Investment Companies Regulations 2001

PART III

CORPORATE CODE

*Shares*

**Shares**

- 45.**—(1) An open-ended investment company may issue more than one class of shares.
- (2) A shareholder may not have any interest in the scheme property of the company.
- (3) The rights which attach to each share of any given class are—
- (a) the right, in accordance with the instrument of incorporation, to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the scheme property;
  - (b) the right, in accordance with the instrument of incorporation, to vote at any general meeting of the company or at any relevant class meeting; and
  - (c) such other rights as may be provided for, in relation to shares of that class, in the instrument of incorporation of the company.
- (4) In respect of any class of shares, the rights referred to in paragraph (3) may, if the company's instrument of incorporation so provides, be expressed in two denominations; and in the case of any such class, one (the "smaller") denomination is to be such proportion of the other (the "larger") denomination as is fixed by the instrument of incorporation.
- (5) In respect of any class of shares within paragraph (4), any share to which are attached rights expressed in the smaller denomination is to be known as a smaller denomination share; and any share to which are attached rights expressed in the larger denomination is to be known as a larger denomination share.
- (6) In respect of any class of shares, the rights which attach to each share of that class are—
- (a) except in respect of a class of shares within paragraph (4), equal to the rights that attach to each other share of that class; and
  - (b) in respect of a class of shares within that paragraph, equal to the rights that attach to each other share of that class of the same denomination.
- (7) In respect of any class of shares within paragraph (4), the rights that attach to any smaller denomination share of that class are to be a proportion of the rights that attach to any larger denomination share of that class and that proportion is to be the same as the proportion referred to in paragraph (4).

**Share certificates**

46.—(1) Subject to regulations 47 and 48, an open-ended investment company must prepare documentary evidence of title to its shares (“share certificates”) as follows—

- (a) in respect of any new shares issued by it;
- (b) where a shareholder has transferred part only of his holding back to the company, in respect of the remainder of that holding;
- (c) where a shareholder has transferred part only of his holding to the designated person, in respect of the remainder of that holding;
- (d) where a company has registered a transfer of shares made to a person other than the company or a person designated as mentioned in sub-paragraph (c)—
  - (i) in respect of the shares transferred to the transferee; and
  - (ii) in respect of any shares retained by the transferor which were evidenced by any certificate sent to the company for the purposes of registering the transfer;
- (e) in respect of any holding of bearer shares for which a certificate evidencing title has already been issued but where the certificate has been surrendered to the company for the purpose of being replaced by two or more certificates which between them evidence title to the shares comprising that holding; and
- (f) in respect of any shares for which a certificate has already been issued but where it appears to the company that the certificate needs to be replaced as a result of having been lost, stolen or destroyed or having become damaged or worn out.

(2) A company must exercise due diligence and take all reasonable steps to ensure that certificates prepared in accordance with paragraph (1)(a) to (e) are ready for delivery as soon as reasonably practicable.

(3) Certificates need be prepared in the circumstances referred to in paragraph (1)(e) and (f) only if the company has received—

- (a) a request for a new certificate;
- (b) the old certificate (if there is one);
- (c) such indemnity as the company may require; and
- (d) such reasonable sum as the company may require in respect of the expenses incurred by it in complying with the request.

(4) Each share certificate must state—

- (a) the number of shares the title to which is evidenced by the certificate;
- (b) where the company has more than one class of shares, the class of shares title to which is evidenced by the certificate; and
- (c) except in the case of bearer shares, the name of the holder.

(5) Where, in respect of any class of shares, the rights that attach to shares of that class are expressed in two denominations, the reference in paragraph (4)(a) (as it applies to shares of that class) to the number of shares is a reference to the total of—

$$N + \frac{n}{p}$$

(6) In paragraph (5)—

- (a)  $N$  is the relevant number of the larger denomination shares of the class in question;
- (b)  $n$  is the relevant number of the smaller denomination shares of that class; and

(c)  $p$  is the number of smaller denomination shares of that class that are equivalent to one larger denomination share of that class.

(7) Nothing in these Regulations is to be taken as preventing the total arrived at under paragraph (5) being expressed on the certificate as a single entry representing the result derived from the formula set out in that paragraph.

(8) In England and Wales, a share certificate specifying any shares held by any person which is—

- (a) under the common seal of the company; or
- (b) authenticated in accordance with regulation 59;

is prima facie evidence of that person's title to the shares.

(9) In Scotland, a share certificate specifying any shares held by any person which is—

- (a) under the common seal of the company; or
- (b) subscribed by the company in accordance with the Requirements of Writing (Scotland) Act 1995(1);

is, unless the contrary is shown, sufficient evidence of that person's title to the shares.

#### **Exceptions from regulation 46**

**47.**—(1) An open-ended investment company which is a participating issuer must not prepare share certificates in respect of any share in the company which is an uncertificated unit of a security.

(2) Nothing in regulation 46 requires a company to prepare share certificates in the following cases.

(3) Case 1 is any case where the company's instrument of incorporation states that share certificates will not be issued and contains provision as to other procedures for evidencing a person's entitlement to shares.

(4) Case 2 is any case where a shareholder has indicated to the company in writing that he does not wish to receive a certificate.

(5) Case 3 is any case where shares are issued or transferred to the designated person.

(6) Case 4 is any case where shares are issued or transferred to a nominee of a recognised investment exchange who is designated for the purposes of this paragraph in the rules of the investment exchange in question.

#### **Bearer shares**

**48.** An open-ended investment company may, if its instrument of incorporation so provides, issue shares ("bearer shares") evidenced by a share certificate, or by any other documentary evidence of title for which provision is made in its instrument of incorporation, which indicates—

- (a) that the holder of the document is entitled to the shares specified in it; and
- (b) that no entry will be made on the register of shareholders identifying the holder of those shares.

#### **Register of shareholders**

**49.** Schedule 3 to these Regulations makes provision with respect to the register of shareholders of an open-ended investment company.

---

(1) 1995 c. 7.

**Power to close register**

**50.**—(1) Subject to paragraph (2), an open-ended investment company may, on giving notice by advertisement in a national newspaper circulating in all the countries in which shares in the company are sold, close the register of shareholders for any time or times not exceeding, in the whole, 30 days in each year.

(2) Paragraph (1) has effect—

- (a) in the case of a company which is a participating issuer, subject to regulation 22 of the Uncertificated Securities Regulations 1995<sup>(2)</sup> (consent of Operator of system required to close register) and to any requirements contained in FSA rules, in so far as such requirements are not inconsistent with that regulation; and
- (b) in the case of any other company, subject to any requirements contained in FSA rules.

**Power of court to rectify register**

**51.**—(1) An application to the court may be made under this regulation if—

- (a) the name of any person is, without sufficient cause, entered in or omitted from the register of shareholders of an open-ended investment company;
- (b) default is made as to the details contained in any entry on the register in respect of a person's holding of shares in the company; or
- (c) default is made or unnecessary delay takes place in amending the register so as to reflect the fact of any person having ceased to be a shareholder.

(2) An application under this regulation may be made by the person aggrieved, by any shareholder of the company or by the company itself.

(3) The court may refuse the application or may order rectification of the register of shareholders and payment by the company of any damages sustained by any party aggrieved.

(4) On such an application the court may decide any question necessary or expedient to be decided for rectification of the register of shareholders including, in particular, any question relating to the right of a person who is a party to the application to have his name entered in or omitted from the register (whether the question arises as between shareholders and alleged shareholders or as between shareholders or alleged shareholders on the one hand and the company on the other hand).

**Share transfers**

**52.** Schedule 4 to these Regulations makes provision for the transfer of registered and bearer shares in an open-ended investment company.

---

(2) S.I. 1995/3272, amended by S.I. 1996/2827, S.I. 1997/251, S.I. 1999/506, S.I. 2000/311 and S.I. 2000/1682.